

STATE OF KANSAS

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**2016 SESSION LAWS  
OF KANSAS  
VOL. 1**

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

PASSED DURING THE 2016 REGULAR SESSION OF THE  
LEGISLATURE OF THE STATE OF KANSAS

Date of Publication of this Volume  
July 1, 2016

## 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 2016 regular session of the Legislature of the State of Kansas, begun on the 11th day of January, A.D. 2016, and concluded on the 1st day of June, A.D. 2016; 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. 2016, except when otherwise provided.

Given under my hand and seal this 1st day of July, A.D. 2016.

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 The bill index, subject index and list of statutes repealed or amended will assist you in locating bills of interest.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

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5	<b>Sally Cauble</b> , Dodge City	10	<b>Jim McNiece</b> , Wichita

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<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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<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> , 616 S. Sheridan, Wichita 67213 .....	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

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<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 Dr., 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> , 8119 Champions Ct., 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 Dr., Mission Hills 66208 .....	Rep.	21
<b>Bradford, John</b> , 125 Rock Creek Loop, Lansing 66043 .....	Rep.	40
<b>Bruchman, Rob</b> , 3512 W. 129th St., Leawood 66209 .....	Rep.	20
<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> , 2157 Redhawk Lane, 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>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
<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>Helgerson, Henry</b> , 12 E. Peach Tree Lane, Eastborough 67207 .....	Dem.	83

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<b>Hemsey, 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> , P.O. Box 186, Atchison 66002 .....	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> , P.O. Box 295, 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>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, Les</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 299, Havana 67347 .....	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, Richard</b> , 510 Pine Ridge Rd., Parsons 67357 .....	Rep.	7
<b>Rahjes, Ken</b> , 1798 E. 900 Rd., Agra 67621 .....	Rep.	110
<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

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<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>Scott, Ben J., Sr.</b> , 3024 S.E. Minnesota Ave., Topeka 66605 .....	Dem.	58
<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, Charles</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> , 11716 S.W. 80th St., Spivey 67142 .....	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>Weber, Chuck</b> , 2331 N. Winstead Circle, Wichita 67226 .....	Rep.	85
<b>Whipple, Brandon</b> , 4455 S. Washington Ct., 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



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<b>Foster Chisholm</b> .....	Sergeant at Arms

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Senate Majority Leader: <b>Terry Bruce</b> , Hutchinson
House Majority Leader: <b>Jene Vickrey</b> , Louisburg
Senate Minority Leader: <b>Anthony Hensley</b> , Topeka
House Minority Leader: <b>Tom Burroughs</b> , Kansas City

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

# 2016 SESSION LAWS OF KANSAS

## CHAPTER 1

SENATE BILL No. 278°

AN ACT designating Cowley county the official stone bridge capital of Kansas.

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

Section 1. Cowley county is the home of 18 laid stone arch bridges built before 1910, 17 of which are still traveled by daily traffic. Cowley county is hereby designated as the official “stone bridge capital” of the state of Kansas.

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

Approved January 25, 2016.

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## CHAPTER 2

HOUSE BILL No. 2449

AN ACT concerning the judicial branch; relating to severability of the provisions of 2015 House Bill No. 2005, chapter 81 of the 2015 Session Laws of Kansas; repealing K.S.A. 2015 Supp. 20-1a18.

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

Section 1. The provisions of 2015 House Bill No. 2005, chapter 81 of the 2015 Session Laws of Kansas, are severable. If any provision of 2015 House Bill No. 2005, chapter 81 of the 2015 Session Laws of Kansas, is held to be invalid or unconstitutional, the legislature declares by this act that the remainder of 2015 House Bill No. 2005, chapter 81 of the 2015 Session Laws of Kansas, shall remain in force and effect without such invalid or unconstitutional provision.

Sec. 2. K.S.A. 2015 Supp. 20-1a18 is hereby repealed.

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

Approved February 8, 2016.

Published in the *Kansas Register* February 11, 2016.

## CHAPTER 3

## SENATE BILL No. 247

AN ACT concerning municipal audits; relating to audit procedures; amending K.S.A. 75-1120a, 75-1121 and 75-1123 and K.S.A. 2014 Supp. 75-1122 and 75-1124 and repealing the existing sections.

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

Section 1. K.S.A. 75-1120a is hereby amended to read as follows: 75-1120a. (a) Except as otherwise provided in this section, the governing body of each municipality, as defined in K.S.A. 75-1117, and amendments thereto, shall utilize accounting procedures and fiscal procedures in the preparation of financial statements and financial reports that conform to generally accepted accounting principles as promulgated by the governmental accounting standards board and the American institute of certified public accountants and adopted by rules and regulations of the director of accounts and reports.

(b) The governing body of any municipality, which has aggregate annual gross receipts of less than ~~\$275,000~~ \$500,000 and which does not operate a utility, shall not be required to maintain fixed asset records.

(c) (1) The director of accounts and reports shall waive the requirements of subsection (a) upon request therefor by the governing body of any municipality. The waiver shall be granted to the extent requested by the governing body. Prior to requesting the waiver provided for in this subsection, the governing body, by resolution, annually shall make a finding that financial statements and financial reports prepared in conformity with the requirements of subsection (a) are not relevant to the requirements of the cash-basis and budget laws of this state and are of no significant value to the governing body or members of the general public of the municipality. No governing body of a municipality shall request the waiver or adopt the resolution authorized under this subsection if the provisions of revenue bond ordinances or resolutions or other ordinances or resolutions of the municipality require financial statements and financial reports to be prepared in conformity with the requirements of subsection (a). The governing body of any municipality which is granted a waiver under this subsection shall cause financial statements and financial reports of the municipality to be prepared on the basis of cash receipts and disbursements as adjusted to show compliance with the cash-basis and budget laws of this state.

(2) The provisions of this subsection do not apply to community colleges.

(d) The director of accounts and reports shall waive the requirements of law relating to the preparation and maintenance of fixed asset records upon request therefor by the board of trustees of any community college. The waiver shall be granted to the extent and for the period of time requested by the board of trustees. Nothing contained in this subsection

shall be construed so as to exempt any community college from compliance with the provisions of K.S.A. 71-211, and amendments thereto, which requires the use by all community colleges of a standardized and uniform chart of accounts.

Sec. 2. K.S.A. 75-1121 is hereby amended to read as follows: 75-1121. The director of accounts and reports shall:

(a) Formulate, devise and prescribe a system of fiscal procedure, auditing, accounting and reporting for municipalities, applicable to those municipalities required by K.S.A. 75-1122, and amendments thereto, to have their accounts examined and audited at least once each year.

(b) Adopt rules and regulations to carry out the provisions of this act and, from time to time, to make, change, amend and enforce such system and forms of accounting and reporting and rules and regulations. No rules and regulations adopted pursuant to the provisions of this section shall prescribe any system of fiscal procedure or require the governing body of any municipality to have its accounts examined ~~and~~ or audited unless such municipality is required to have its accounts examined ~~and~~ or audited under the provisions of K.S.A. 75-1122, and amendments thereto.

(c) Conduct either in person or by representatives such investigation as the director may deem necessary to determine if this act and the regulations issued pursuant thereto are being fully complied with.

Sec. 3. K.S.A. 2014 Supp. 75-1122 is hereby amended to read as follows: 75-1122. (a) The governing body of every unified school district; ~~the governing body of every recreation commission having aggregate annual gross receipts in excess of \$150,000~~ and the governing body of all other municipalities either having aggregate annual gross receipts in excess of ~~\$275,000~~ \$500,000 or which has general obligation or revenue bonds outstanding in excess of ~~\$275,000~~ \$500,000 shall have its accounts examined and audited by a licensed municipal public accountant or accountants or certified public accountant or accountants at least once each year. In the case of school districts, all tax and other funds such as activity funds and accounts shall also be examined and audited.

(b) *The governing body of every municipality, except school districts, having aggregate annual gross receipts in excess of \$275,000, but not more than \$500,000, or which has general obligation or revenue bonds outstanding in excess of \$275,000, but not more than \$500,000, shall have its accounts examined by a licensed certified public accountant or accountants using agreed-upon procedures as determined by the director of accounts and reports at least once each year. Each municipality subject to this subsection shall have its accounts examined using enhanced agreed-upon procedures at least once every three years.*

(c) The governing body of any city of the third class required to have its accounts examined ~~and~~ or audited pursuant to the provisions of this section shall annually determine the total cost to be incurred by the city

in complying with the requirements of this act and shall identify the same in the budget of the city.

Sec. 4. K.S.A. 75-1123 is hereby amended to read as follows: 75-1123. In conducting examinations ~~and~~ or audits provided for by K.S.A. 10-1208, 12-866, 13-1243, ~~13-14412~~ or 75-1122, and amendments thereto, the licensed municipal public accountant or certified public accountant so engaged shall follow the municipal audit *and accounting* guide, or the applicable portions thereof, prescribed by the director of accounts and reports. The municipality so audited *or examined* shall install and put such standardized accounting system into effect as soon as possible after such *examination or audit*.

Sec. 5. K.S.A. 2014 Supp. 75-1124 is hereby amended to read as follows: 75-1124. (a) A copy of each audit report with recommendations, if any, rendered by any licensed municipal public accountant or certified public accountant upon the completion of any audits provided for by K.S.A. 10-1208, 12-866, 13-1243 or 75-1122, and amendments thereto, shall be filed with the secretary. The municipality's circular A-133 audit report, if required under the provisions of the federal single audit act amendments of 1996, 31 U.S.C. §§ 7501-7507, along with any other audit related documents deemed necessary by the secretary, shall also be filed with the secretary.

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

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

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

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

(f) *A copy of each report resulting from a review of municipal accounts using procedures as required by K.S.A. 75-1122, and amendments thereto, shall be filed electronically with the secretary within one year of the end of the municipality fiscal year for which the examination is per-*

*formed unless an extension of time is granted by the secretary. Upon submission of the report, the municipality is not required to submit such report to any other state agency, office or official. Final payment to any accountant performing such an examination using agreed-upon procedures shall not be made until a copy of such report has been filed as shown by a statement of the secretary.*

(g) For the purposes of this section, “secretary” means the secretary of administration or the secretary’s designee.

Sec. 6. K.S.A. 75-1120a, 75-1121 and 75-1123 and K.S.A. 2014 Supp. 75-1122 and 75-1124 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

Approved February 22, 2016.

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## CHAPTER 4

### SENATE BILL No. 133

AN ACT concerning children and minors; relating to possession or consumption of alcoholic beverages; immunity from liability for minor seeking medical assistance; amending K.S.A. 2015 Supp. 41-727 and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 41-727 is hereby amended to read as follows: 41-727. (a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.

(b) Violation of this section by a person 18 or more years of age but less than 21 years of age is a class C misdemeanor for which the minimum fine is \$200.

(c) Any person less than 18 years of age who violates this section is a juvenile offender under the revised Kansas juvenile justice code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than \$200 nor more than \$500.

(d) In addition to any other penalty provided for a violation of this section: (1) The court may order the offender to do either or both of the following:

- (A) Perform 40 hours of public service; or
- (B) attend and satisfactorily complete a suitable educational or train-

ing program dealing with the effects of alcohol or other chemical substances when ingested by humans.

(2) Upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.

(3) Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 90 days whether or not that person has a driver's license.

(4) Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.

(e) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

*(f) (1) A person and, if applicable, one or two other persons acting in concert with such person are immune from criminal prosecution for a violation of this section, and any city ordinance or county resolution prohibiting the acts prohibited by this section, if such person:*

*(A) (i) Initiated contact with law enforcement or emergency medical services and requested medical assistance on such person's behalf because such person reasonably believed such person was in need of medical assistance; and*

*(ii) cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance;*

*(B) (i) initiated contact with law enforcement or emergency medical services, or was one of one or two other persons who acted in concert with such person, and requested medical assistance for another person who reasonably appeared to be in need of medical assistance;*

*(ii) provided their full name, the name of one or two other persons acting in concert with such person, if applicable, and any other relevant information requested by law enforcement or emergency medical services;*

*(iii) remained at the scene with the person who reasonably appeared to be in need of medical assistance until emergency medical services personnel and law enforcement officers arrived; and*

*(iv) cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance; or*

*(C) (i) was the person who reasonably appeared to be in need of*



*medical assistance as described in subsection (f)(1)(B), but did not initiate contact with law enforcement or emergency medical services; and*

*(ii) cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance.*

*(2) A person shall not be allowed to initiate or maintain an action against a law enforcement officer, or such officer's employer, based on the officer's compliance or failure to comply with this subsection.*

~~(f)~~ (g) Any city ordinance or county resolution prohibiting the acts prohibited by this section shall provide a minimum penalty which is not less than the minimum penalty prescribed by this section.

~~(g)~~ (h) A law enforcement officer may request a person under 21 years of age to submit to a preliminary screening test of the person's breath to determine if alcohol has been consumed by such person if the officer has reasonable grounds to believe that the person has alcohol in the person's body except that, if the officer has reasonable grounds to believe the person has been operating or attempting to operate a vehicle under the influence of alcohol, the provisions of K.S.A. 8-1012, and amendments thereto, shall apply. No waiting period shall apply to the use of a preliminary breath test under this subsection. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made for violation of this section. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results or a refusal to submit to a preliminary breath test shall be admissible in court in any criminal action, but are not per se proof that the person has violated this section. The person may present to the court evidence to establish the positive preliminary screening test was not the result of a violation of this section.

~~(h)~~ (i) (1) Any person less than 18 years of age who violates only this section shall not be detained or placed in a jail, as defined in K.S.A. 2015 Supp. 38-2302, and amendments thereto.

(2) Any person less than 18 years of age who is arrested only for a violation of this section shall not be detained or placed in a juvenile detention facility, as defined in K.S.A. 2015 Supp. 38-2302, and amendments thereto, for a period exceeding 24 hours, excluding Saturdays, Sundays and legal holidays.

(3) Any person less than 18 years of age at the time of the offense who is adjudicated only of a violation of this section shall not be detained in a jail, juvenile detention facility, juvenile correctional facility or sanctions house, as defined in K.S.A. 2015 Supp. 38-2302, and amendments thereto.

~~(i)~~ (j) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 2. K.S.A. 2015 Supp. 41-727 is hereby repealed.

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

Approved February 23, 2016.

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CHAPTER 5

SENATE BILL No. 423

AN ACT concerning postsecondary education; redesignating Kansas state university - Salina, college of technology as Kansas state university polytechnic campus; amending K.S.A. 74-3209, 74-3229, 76-205, 76-213, 76-220, 76-221, 76-222, 76-223, 76-751 and 76-754 and K.S.A. 2015 Supp. 76-156a, 76-756 and 76-7,126 and repealing the existing sections.

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

Section 1. K.S.A. 74-3209 is hereby amended to read as follows: 74-3209. As used in this act:

(a) "Institution" means the university of Kansas, university of Kansas medical center, Kansas state university of agriculture and applied science, Wichita state university, Emporia state university, Pittsburg state university, Fort Hays state university; and ~~Kansas state university - Salina, college of technology~~ *university polytechnic campus*;

(b) "governing authority" means the state board of regents or the chief executive officer of an institution if such officer has been designated by the state board to act on its behalf in exercising the authority of the board to care for, control, maintain and supervise all roads, streets, drive-ways and parking facilities for vehicles on the grounds of the institution; and

(c) "vehicle" means motor vehicle, motorized bicycle and bicycle.

Sec. 2. K.S.A. 74-3229 is hereby amended to read as follows: 74-3229.

(a) There is hereby established the students' advisory committee to the state board of regents. Prior to July 1, 1996, the students' advisory committee shall be composed of seven members who shall be the highest student executive officer elected by the entire student body at the university of Kansas, Kansas state university of agriculture and applied science, Emporia state university, Pittsburg state university, Fort Hays state university, Wichita state university; and ~~Kansas state university - Salina, college of technology~~ *university polytechnic campus*. On and after July 1, 1996, the students' advisory committee shall be composed of six members who shall be the highest student executive officer elected by the entire student body at the university of Kansas, Kansas state university of agriculture and applied science, Emporia state university, Pittsburg state university, Fort Hays state university; and Wichita state university.

The chief executive officers of the state educational institutions under the control and supervision of the state board of regents shall annually

certify to the state board the names of the student executive officers elected to membership on the students' advisory committee and, upon such certification, the student officers shall qualify for membership on the committee. The members of the advisory committee shall serve for terms expiring concurrently with their terms as elective student officers and upon qualification of their successors.

(b) The students' advisory committee shall be notified of all meetings of the state board of regents and shall have the following functions, powers and duties:

(1) Attend all meetings of the state board of regents except closed or executive meetings held pursuant to the provisions of K.S.A. 75-4319, and amendments thereto;

(2) make recommendations to the board of regents concerning course and curriculum planning and faculty evaluation;

(3) advise and consult with the board of regents in the formulation of policy decisions on student affairs;

(4) identify student concerns;

(5) consider any problems presented to it by the board of regents and give advice thereon; and

(6) disseminate information to their peers concerning the philosophies and standards of education developed by the board of regents and stimulate awareness of student rights and responsibilities.

(c) Members of the students' advisory committee attending meetings of the state board of regents shall receive no compensation for serving on such advisory committee, but shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto from moneys appropriated therefor to the state board of regents.

Sec. 3. K.S.A. 2015 Supp. 76-156a is hereby amended to read as follows: 76-156a. The Kansas university endowment association is hereby authorized to act as the investing agent for any endowment or bequest to the university of Kansas. The Kansas state university foundation is hereby authorized to act as the investing agent for any endowment or bequest to Kansas state university of agriculture and applied science or to Kansas state ~~university Salina, college of technology~~ *university polytechnic campus*. The Wichita state university foundation is hereby authorized to act as the investing agent for any endowment or bequest to Wichita state university. The Fort Hays state university foundation is hereby authorized to act as the investing agent for any endowment or bequest to Fort Hays state university. The Emporia state university foundation, inc., is hereby authorized to act as the investing agent for any endowment or bequest to Emporia state university. The Pittsburg state university foundation, inc., is hereby authorized to act as the investing agent for any endowment or bequest to Pittsburg state university.

Any such investing agent may exercise such fiscal management and

administrative powers as may be necessary or appropriate for the lawful and efficient management of any such endowment or bequest. Each investing agent is hereby authorized to execute any agreements or other legal papers appropriate to the accomplishment of the purposes of this act with respect to any such endowment or bequest.

Sec. 4. K.S.A. 76-205 is hereby amended to read as follows: 76-205.

(a) The Kansas college of technology hereby is merged with and made a part of the Kansas state university of agriculture and applied science, and the institutional infrastructure of the college hereby is designated as the Kansas state ~~university Salina, college of technology~~ *university polytechnic campus*. All properties, moneys, appropriations, rights and authorities vested in the Kansas college of technology prior to the effective date of this act hereby are vested in Kansas state university of agriculture and applied science. Whenever the Kansas technical institute, or the Kansas college of technology, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to the Kansas state university of agriculture and applied science.

(b) The merger effected by this act shall not affect any contract, agreement or assurance in effect on the effective date of this act. All lawful debts of the Kansas college of technology shall be assumed and paid by the Kansas state university of agriculture and applied science.

(c) Subject to authorization by the state board of regents, all personnel of the Kansas college of technology, who are necessary, in the opinion of the president of Kansas state university of agriculture and applied science, to the operation of the Kansas state ~~university Salina, college of technology~~ *university polytechnic campus*, shall become personnel of Kansas state university of agriculture and applied science. All such personnel shall retain all retirement benefits and all rights of employment which had accrued to or vested in such personnel prior to the merger effected by this act. The employment of such personnel shall be deemed to have been uninterrupted.

(d) (1) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against the Kansas college of technology, or by or against any personnel of the Kansas college of technology, shall abate by reason of the merger effected by operation of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the Kansas state university of agriculture and applied science.

(2) No criminal action commenced or which could have been commenced by the Kansas college of technology shall abate by the taking effect of this act.

(e) Commencing with the 1992 fiscal year, for the purpose of preparation of the governor's budget report and related legislative measure or

measures for submission to the legislature, the Kansas state ~~university—Salina, college of technology~~ *university polytechnic campus* shall be considered a separate state agency and shall be titled for such purpose as the “Kansas State ~~University—Salina, College of Technology~~ *University Polytechnic Campus*.” The budget estimates and requests of such college shall be presented as a state agency separate from Kansas state university, and such separation shall be maintained in the budget documents and reports prepared by the director of the budget and the governor, or either of them, including all related legislative reports and measures submitted to the legislature.

Sec. 5. K.S.A. 76-213 is hereby amended to read as follows: 76-213.

(a) The state board of regents has and may exercise the following powers and authority:

(1) To determine the programs of technical education and other programs which shall be offered and the certificates of completion of courses or curriculum and degrees which may be granted by the Kansas state ~~university—Salina, college of technology~~ *university polytechnic campus*;

(2) to acquire any land and buildings formerly comprising any part of what is commonly known as Schilling air force base, Salina, Kansas, by gift, purchase, lease, contract, or otherwise, from the United States government or any of its agencies or from the city of Salina or any of its agencies and to grant such assurances as may be appropriate to the acquisition and utilization of any such land and buildings;

(3) to use the proceeds of the retailers’ sales tax levied by the city of Salina for purposes benefiting the Kansas state ~~university—Salina, college of technology~~ *university polytechnic campus*, which purposes shall include, but not by way of limitation, site preparation, buildings, campus improvements, equipment, and the financing of capital improvements; and

(4) to do all things necessary and appropriate to effectuate the orderly and timely merger of the Kansas college of technology with the Kansas state university of agriculture and applied science.

(b) As used in this section, the term “technical education” means vocational or technical education and training or retraining which is given at Kansas state ~~university—Salina, college of technology~~ *university polytechnic campus*, and which is conducted as a program of education designed to educate and train individuals as technicians in recognized fields. Programs of technical education include, but not by way of limitation, aeronautical technology inclusive of professional pilot training, construction technology, drafting and design technology, electrical technology, electronic technology, mechanical technology, automatic data processing and computer technology, industrial technology, metals technology, safety technology, tool design technology, cost control technology, surveying technology, industrial production technology, sales service technology,

industrial writing technology, communications technology, chemical control technology, quality control technology and such additional programs of technical education which may be specified from time to time by the board of regents.

Sec. 6. K.S.A. 76-220 is hereby amended to read as follows: 76-220.

(a) The state board of regents is hereby authorized and empowered, in its discretion, for and on behalf of Kansas state university of agriculture and applied science, to sell and convey all of the rights, title and interest in the following described real estate located in Saline county, Kansas: A tract of land located in section 34, township 14 south, range 3 west of the sixth principal meridian in Saline county, Kansas, more particularly described as follows: Beginning at the northeast corner of block 9 of the Schilling subdivision of Saline county, Kansas; thence south 0 degrees 06 minutes 24 seconds east, a distance of 310.00 feet; thence south 89 degrees 53 minutes 36 seconds west, a distance of 360.00 feet; thence north 0 degrees 06 minutes 24 seconds west, a distance of 310.00 feet; thence north 89 degrees 53 minutes 36 seconds east, a distance of 360.00 feet to the point of beginning said tract containing 2.56 acres, more or less.

(b) Conveyance of such rights, title and interest in such real estate shall be executed in the name of the state board of regents by its chairperson and executive officer. Any proceeds from the sale of such real estate shall be deposited in the state treasury to the credit of an appropriate account of the restricted fees fund of Kansas state university of agriculture and applied science. Such proceeds shall be applied to or utilized for the repair, remodeling, construction or reconstruction of institutional facilities, the acquisition of equipment, and the financing of student scholarships at the ~~Kansas state university—Salina, college of technology~~ *university polytechnic campus*.

Sec. 7. K.S.A. 76-221 is hereby amended to read as follows: 76-221.

(a) The state board of regents is hereby authorized and empowered, in its discretion, for and on behalf of Kansas state university of agriculture and applied science, to sell and convey or exchange and convey for other real estate of similar value all of the rights, title and interest in any part or parts or all of the following described real estate located in Saline county, Kansas: Block 2; block 7B; block 8A; block 9A and block 9C, except for the tract of land located in section 34, township 14 south, range 3 west of the sixth principal meridian in Saline county, Kansas, more particularly described as follows: Beginning at the northeast corner of block 9 of the Schilling subdivision of Saline county, Kansas; thence south 0 degrees 06 minutes 24 seconds east, a distance of 310.00 feet; thence south 89 degrees 53 minutes 36 seconds west, a distance of 360.00 feet; thence north 0 degrees 06 minutes 24 seconds west, a distance of 310.00 feet; thence north 89 degrees 53 minutes 36 seconds east, a distance of

360.00 feet to the point of beginning said tract containing 2.56 acres, more or less; and block 10 all of Schilling subdivision.

(b) Conveyance of such rights, title and interest in such real estate shall be in accordance with the procedures prescribed therefor by the state board of regents and shall be executed in the name of the state board of regents by its chairperson and executive officer. Any proceeds from sale of such real estate shall be deposited in the state treasury to the credit of an appropriate account of the restricted fees fund of Kansas state university of agriculture and applied science. Such proceeds shall be applied to or utilized for the repair, remodeling, construction or reconstruction of institutional facilities, the acquisition of equipment, and the financing of student scholarships at the ~~Kansas state university—Salina, college of technology~~ *university polytechnic campus*, or for the purchase of property adjacent thereto.

(c) No exchange and conveyance of real estate authorized by this section shall be made or accepted by the state board of regents until the deeds, titles and conveyances have been reviewed and approved by the attorney general.

Sec. 8. K.S.A. 76-222 is hereby amended to read as follows: 76-222.

(a) The state board of regents is hereby authorized and empowered, in its discretion, for and on behalf of Kansas state university of agriculture and applied science, to sell and convey or exchange and convey for other real estate of similar value all of the rights, title and interest in any part or parts or all of the following described real estate located in Saline county, Kansas: A tract of land located in part 16B of block 16, lying in the southeast quarter of section 27, township 14 south, range 3 west of the sixth principal meridian and in the northeast quarter of section 34, township 14 south, range 3 west of the sixth principal meridian in the Schilling subdivision of Saline county, Kansas; more particularly described as follows: Commencing at the northwest corner of the southeast quarter of section 27, township 14 south, range 3 west; thence south 89 degrees 49 minutes 04 seconds east along the north line of said southeast quarter a distance of 1187.93 feet; thence south 0 degrees 06 minutes 24 seconds east a distance of 2323.20 feet; thence south 89 degrees 53 minutes 36 seconds west a distance of 50.00 feet to the northeast corner of block 16B of Schilling subdivision, Saline county, Kansas; thence south 0 degrees 06 minutes 24 seconds east a distance of 316.12 feet to a point on the east boundary of block 16B, on the south line of the southeast quarter of section 27, township 14 south, range 3 west and on the north line of the northeast quarter of section 34, township 14 south, range 3 west; thence south 0 degrees 06 minutes 24 seconds east a distance of 511.41 feet to the southeast corner of block 16B; thence south 89 degrees 53 minutes 36 seconds west a distance of 555.01 feet to the true point of beginning; thence south 89 degrees 53 minutes 36 seconds west a distance of 410.00

feet to the southwest corner of block 16B; thence north 0 degrees 06 minutes 24 seconds west a distance of 264.38 feet; thence north 89 degrees 53 minutes 36 seconds east a distance of 410.00 feet; thence south 0 degrees 06 minutes 24 seconds east a distance of 264.38 feet to the true point of beginning and containing 2.49 acres, more or less.

(b) Conveyance of such rights, title and interest in such real estate shall be in accordance with the procedures prescribed therefor by the state board of regents and shall be executed in the name of the state board of regents by its chairperson and executive officer. Any proceeds from sale of such real estate shall be deposited in the state treasury to the credit of an appropriate account of the restricted fees fund of Kansas state university of agriculture and applied science. Such proceeds shall be applied to or utilized for the repair, remodeling, construction or reconstruction of institutional facilities, the acquisition of equipment, and the financing of student scholarships at the ~~Kansas state university—Salina, college of technology~~ *university polytechnic campus*, or for the purchase of property adjacent thereto.

(c) No exchange and conveyance of real estate authorized by this section shall be made or accepted by the state board of regents until the deeds, titles and conveyances have been reviewed and approved by the attorney general.

Sec. 9. K.S.A. 76-223 is hereby amended to read as follows: 76-223.

(a) The state board of regents is hereby authorized and empowered, in its discretion, for and on behalf of Kansas state university of agriculture and applied science, to sell and convey or exchange and convey for other real estate of similar value all of the rights, title and interest in any part or parts or all of the following described real estate located in Saline county, Kansas: A tract of land, identified as the "Aircraft Engine Test Facility", lying in the Northwest Quarter (NW/4) of Section Four (4), Township Fifteen (15) South, Range Three (3) West of the Sixth (6th) Principal Meridian in the Schilling Subdivision of Saline county, Kansas, more particularly described as follows: Commencing at the Northeast corner of the Northwest Quarter (NW/4) of Section Four (4), Township Fifteen (15) South, Range Three (3) West; thence South 00°06'18" E, along the East line of said Northwest Quarter (NW/4) a distance of 598.41 feet to the centerline of existing Taxiway No. 11; thence South 89°53'26" W along the centerline of said Taxiway No. 11, a distance of 562.05 feet, thence South 00°06'34" E, a distance of 50.00 feet to the true point of beginning, said point being on the south edge of Taxiway No. 11; thence South 89°53'26" W, along the south edge of Taxiway No. 11, a distance of 600.00 feet; thence South 00°06'34" E, a distance of 500.00 feet; thence North 89°53'26" E, a distance of 600.00 feet; thence North 00°06'34" W, a distance of 500.00 feet to the true point of beginning and containing 6.89 acres, more or less, together with certain improvements thereon, but



reserving therefrom the facilities and easements for the existing electrical and gas distribution systems as now in place.

(b) Conveyance of such rights, title and interest in such real estate shall be in accordance with the procedures prescribed therefor by the state board of regents and shall be executed in the name of the state board of regents by its chairperson and executive officer. Any proceeds from sale of such real estate shall be deposited in the state treasury to the credit of an appropriate account of the restricted fees fund of Kansas state university of agriculture and applied science. Such proceeds shall be applied to or utilized for the repair, remodeling, construction or reconstruction of institutional facilities, the acquisition of equipment, and the financing of student scholarships at the Kansas state ~~university—Salina, college of technology~~ *university polytechnic campus*, or for the purchase of property adjacent thereto.

(c) No exchange and conveyance of real estate authorized by this section shall be made or accepted by the state board of regents until the deeds, titles and conveyances have been reviewed and approved by the attorney general.

Sec. 10. K.S.A. 76-751 is hereby amended to read as follows: 76-751. As used in this act, “state educational institution” means Fort Hays state university, Kansas state university of agriculture and applied science, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, university of Kansas medical center, Wichita state university, and Kansas state ~~university—Salina, college of technology~~ *university polytechnic campus*.

Sec. 11. K.S.A. 76-754 is hereby amended to read as follows: 76-754. As used in this act, “state educational institution” means Fort Hays state university, Kansas state university of agriculture and applied science, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, university of Kansas medical center, Wichita state university, and Kansas state ~~university—Salina, college of technology~~ *university polytechnic campus*.

Sec. 12. K.S.A. 2015 Supp. 76-756 is hereby amended to read as follows: 76-756. As used in this act:

(a) “State educational institution” means Fort Hays state university, Kansas state university of agriculture and applied science, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, university of Kansas medical center, Wichita state university and Kansas state ~~university, college of technology at Salina~~ *university polytechnic campus*.

(b) “Endowment association” means:

(1) For the Fort Hays state university, the Fort Hays state university foundation;

(2) for the Kansas state university of agriculture and applied science,

the Kansas state university veterinary medical center, and the Kansas state university-Salina, college of technology university polytechnic campus, the Kansas state university foundation;

(3) for the Emporia state university, the Emporia state university foundation;

(4) for the Pittsburg state university, the Pittsburg state university foundation;

(5) for the university of Kansas and the university of Kansas medical center, the Kansas university endowment association; and

(6) for the Wichita state university, the Wichita state university board of trustees and the Wichita state university foundation.

Sec. 13. K.S.A. 2015 Supp. 76-7,126 is hereby amended to read as follows: 76-7,126. As used in this act, unless the context expressly provides otherwise:

(a) “State educational institution” or “institution” means Fort Hays state university, Kansas state university of agriculture and applied science, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, university of Kansas medical center, Wichita state university and Kansas state university, college of technology at Salina university polytechnic campus.

(b) “Alternative project delivery” means an integrated comprehensive building design and construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations and various forms of agreement all aimed at the successful completion of the design and construction of buildings and other structures whereby a construction manager or general contractor team is selected based on a qualifications and best value approach.

(c) “Ancillary technical services” include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing air conditioning, ventilating, heating and other mechanical building systems and testing and consultant services that are determined by the institution to be required for the project.

(d) “Architectural services” means those services described as the “practice of architecture,” as defined in K.S.A. 74-7003, and amendments thereto.

(e) “Best value selection” means a selection based upon project cost, qualifications and other factors.

(f) (1) “Building construction” means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure.

(2) “Building construction” does not include highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

(g) “Construction project services” means the process of planning,

acquiring, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

(h) “Construction management at-risk services” means the services provided by a firm which has entered into a contract with the institution to be the construction manager or general contractor for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor, and which is required to solicit competitive bids for the trade packages developed for the project and to enter into the trade contracts for a project with the lowest responsible bidder therefor. Construction management at-risk services may include, but are not limited to scheduling, value analysis, system analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees and construction coordination.

(i) “Construction management at-risk contract” means a contract under which an institution acquires from a construction manager or general contractor a series of preconstruction services and an at-risk financial obligation to carry out construction under a specified cost agreement.

(j) “Construction manager or general contractor” means any individual, partnership, joint venture, corporation, or other legal entity who is a member of the integrated project team with the institution, design professional and other consultants that may be required for the project, who utilizes skill and knowledge of general contracting to perform preconstruction services and competitively procures and contracts with specialty contractors assuming the responsibility and the risk for construction delivery within a specified cost and schedule terms including a guaranteed maximum price.

(k) “Design criteria consultant” means a person, corporation, partnership, or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to K.S.A. 74-7003, and amendments thereto, and who is employed by contract to the institution to provide professional design and administrative services in connection with the preparation of the design criteria package.

(l) “Engineering services” means those services described as the “practice of engineering,” as defined in K.S.A. 74-7003, and amendments thereto.

(m) “Guaranteed maximum price” means the cost of the work as defined in the contract.

(n) “Non-state moneys” means any funds received by a state educational institution from any source other than the state of Kansas or any agency thereof.

(o) “Parking lot” means a designated area constructed on the ground

surface for parking motor vehicles. A parking lot included as part of a building construction project shall be subject to the provisions of this act. A parking lot designed and constructed as a stand-alone project shall not be subject to the provisions of this act.

(p) “Preconstruction services” means a series of services including, but not limited to: Design review, scheduling, cost control, value engineering, constructability evaluation and preparation and coordination of bid packages.

(q) (1) “Construction project” or “project” means the process of designing, constructing, reconstructing, altering or renovating a building or other structure.

(2) “Construction project” or “project” does not mean the process of designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structure.

(r) “Procurement committee” means the state educational institution procurement committee established by K.S.A. 2015 Supp. 76-7,131, and amendments thereto.

(s) “State board” means the state board of regents.

Sec. 14. K.S.A. 74-3209, 74-3229, 76-205, 76-213, 76-220, 76-221, 76-222, 76-223, 76-751 and 76-754 and K.S.A. 2015 Supp. 76-156a, 76-756 and 76-7,126 are hereby repealed.

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

Approved March 18, 2016.

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## CHAPTER 6

### HOUSE BILL No. 2438

AN ACT concerning fire districts; adding territory of adjoining cities; amending K.S.A. 19-3605 and 19-3623 and repealing the existing sections.

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

Section 1. K.S.A. 19-3605 is hereby amended to read as follows: 19-3605. If the governing body of any city ~~of the first, second or third classes, lying which lies within or adjoins~~ the boundaries of any proposed or organized fire district shall deem it advisable ~~to that all or a part of the city~~ be included within the territory of any fire district, such city ~~or cities~~ may be included within such district at the time of its organization or any time subsequent thereto ~~as follows~~. The governing body ~~thereof of the city~~ shall, not less than ~~twenty (20)~~ 20 days prior to ~~some a~~ regular meeting ~~day,~~ publish a notice ~~(as in the case of publishing ordinances)~~ in the official city newspaper of its intention to petition the board of county commis-

sioners that all or a part of ~~said the~~ city be made a part of or be included within any proposed or organized fire district in the county and of a hearing on ~~said the~~ proposal at ~~such the~~ meeting. At ~~such the~~ meeting, or any adjournment thereof, the ~~said~~ governing body may adopt a resolution directed to the board of county commissioners ~~praying~~ *requesting* that all or part of the city be included within or added to the fire district, and ~~said the~~ petition may be heard by the board of county commissioners at any meeting thereof. After ~~such the~~ hearing, the board of county commissioners may make its order as in the case of the organization of a new district or the alteration and modification of the boundaries of an existing district.

Sec. 2. K.S.A. 19-3623 is hereby amended to read as follows: 19-3623. New ~~lands territory~~ may be included in any fire district created under the provisions of K.S.A. 19-3613 ~~to through 19-3622, both sections inclusive, or acts amendatory thereof and amendments thereto,~~ in like manner as provided by K.S.A. 19-3604 *or 19-3605, and amendments thereto,* for the inclusion of new ~~lands territory~~ in a fire district organized under the provisions of K.S.A. 19-3601 ~~to through 19-3612, both sections inclusive, or acts amendatory thereof and amendments thereto.~~

Sec. 3. K.S.A. 19-3605 and 19-3623 are hereby repealed.

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

Approved March 18, 2016.

Published in the *Kansas Register* March 24, 2016.

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## CHAPTER 7

### SENATE BILL No. 312

AN ACT concerning the legislative post audit committee; auditing unified school districts; amending K.S.A. 2015 Supp. 46-1133 and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 46-1133 is hereby amended to read as follows: 46-1133. (a) (1) Each fiscal year, the legislative division of post audit shall conduct three school district efficiency audits at the direction of the legislative post audit committee. One audit shall be conducted on a small unified school district; one audit shall be conducted on a medium unified school district; and one audit shall be conducted on a large unified school district. The legislative post audit committee shall make a determination of selecting the appropriate unified school districts first on a voluntary basis in order to implement the provisions of this section.

(2) No unified school district shall be required to participate in a

school district efficiency audit under this subsection if such unified school district has participated in a similar efficiency audit with either the legislative division of post audit or any other organization in the previous ~~five~~ 10 years.

(b) If a unified school district is being audited under subsection (a), upon completion of the audit, such school district shall publish a summary of its audit report with recommendations, if any, on the district's internet website. Such summary shall contain a notice that the complete audit report may be obtained or viewed free of charge at the unified school district office.

(c) The provisions of this section shall expire on June 30, ~~2017~~ 2020.

Sec. 2. K.S.A. 2015 Supp. 46-1133 is hereby repealed.

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

Approved Mach 21, 2016.

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## CHAPTER 8

### SENATE BILL No. 334

AN ACT concerning the attorney general; relating to notice and opportunity to appear or intervene before statute or constitutional provision declared invalid or unconstitutional; amending K.S.A. 60-1712 and K.S.A. 2015 Supp. 60-224 and repealing the existing sections.

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

New Section 1. (a) It is hereby declared to be the public policy of the state of Kansas that the attorney general, as the state's chief legal officer, should have notice and the opportunity to appear and be fully heard before any statute or constitutional provision of this state is determined by the judicial branch to be invalid as violating the constitution of the state of Kansas, the United States constitution or any other provision of federal law. This section shall be liberally construed to effectuate that public policy.

(b) Before declaring or determining any statute or constitutional provision of this state invalid as violating the constitution of the state of Kansas, the United States constitution or any other provision of federal law, or enjoining any statute or constitutional provision for such invalidity, or entering any judgment or order that determines or declares such invalidity, a district court or any judge of the district court, whether acting in judicial or administrative capacity, shall require:

(1) In any criminal case, that the state of Kansas has been given notice of the disputed validity and provided an opportunity to appear and be

heard on the question of the validity of the statute or constitutional provision. Such notice shall be served by the party disputing validity on the prosecuting attorney representing the state in such criminal case. If the prosecuting attorney fails to respond to such notice, the court shall notify the attorney general of such failure to respond and shall provide the attorney general the opportunity to appear and be heard on the question of the validity of the statute or constitutional provision; and

(2) in any civil case, and in all other matters, that notice of the disputed validity has been served on the attorney general by the party disputing validity, or by the court, and the attorney general has been given an opportunity to appear and be heard on the question of the validity of the statute or constitutional provision.

(c) In any matter before the supreme court or the court of appeals, or any justice or judge thereof:

(1) A party that files a pleading, brief, written motion or other filing or paper that contests or calls into doubt the validity of any statute or constitutional provision of this state shall serve such filing or paper on the attorney general, accompanied by a conspicuous notice that the attorney general is being served pursuant to this section; and

(2) the court shall ensure that the attorney general has been provided notice and an opportunity to appear before determining any statute or constitutional provision of this state to be invalid as violating the constitution of the state of Kansas, the United States constitution or any other provision of federal law.

(d) If any court, or justice or judge thereof, enters any judgment or order, or makes any determination or declaration, in violation of this section, the attorney general may, within a reasonable time of learning of such violation, apply to the court to set aside or rescind such judgment, order, determination or declaration. Such application shall be considered timely if made within 30 days from the date the court, or justice or judge thereof, files such judgment, order, determination or declaration, or within 15 days after the attorney general has learned of such violation, whichever is later. Upon application of the attorney general under this subsection, the court shall enter such orders as are necessary to allow the attorney general to appear and be heard and shall set aside or rescind such judgment, order, determination or declaration upon a showing it was entered in violation of this section.

(e) Whenever notice is required to be served on or provided to the attorney general by this section, the attorney general shall be allowed at least 21 days from the date of such notice to appear or intervene, and if the attorney general does appear or intervene, the attorney general shall be given such reasonable additional time to be fully heard as the court may order.

(f) Nothing in this section shall be construed to require the attorney general to appear or intervene in any action.

(g) This section shall not apply in any action or proceeding in which the attorney general is the party disputing or defending the validity of the statute or constitutional provision.

Sec. 2. K.S.A. 2015 Supp. 60-224 is hereby amended to read as follows: 60-224. (a) *Intervention of right.* On timely motion, the court must permit anyone to intervene who:

(1) Is given an unconditional right to intervene by a statute; or

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter substantially impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

(b) *Permissive intervention.* (1) *In general.* On timely motion, the court may permit anyone to intervene who:

(A) Is given a conditional right to intervene by a statute; or

(B) has a claim or defense that shares with the main action a common question of law or fact.

(2) *By a government officer or agency.* (A) On timely motion, the court may permit a governmental officer or agency to intervene if a party's claim or defense is based on:

(i) A statute or executive order administered by the officer or agency; or

(ii) any regulation, order, requirement or agreement issued or made under the statute or executive order.

(B) When the validity of an ordinance, regulation, statute or constitutional provision of this state or a governmental subdivision of this state is drawn in question in any action to which the state or governmental subdivision or an officer, agency or employee thereof is not a party, the court may notify the chief legal officer of the state or its subdivision, and permit intervention on proper application.

(C) *When notice to the attorney general is required by section 1, and amendments thereto, the court must permit intervention by the attorney general on proper application.*

(3) *Delay or prejudice.* In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

(c) *Notice and pleading required.* A motion to intervene must be served on the parties as provided in K.S.A. 60-205, and amendments thereto. The motion must state the grounds for intervention and be accompanied by a pleading that sets out the claim or defense for which intervention is sought.

Sec. 3. K.S.A. 60-1712 is hereby amended to read as follows: 60-1712. When declaratory relief is sought, all persons who have or claim any interest which would be affected by the declaration shall be joined as



parties who have or claim any interest which would be affected by the declaration, and no declaration shall be binding against persons not so joined as parties to the proceeding. In any proceeding which challenges the validity of a municipal ordinance or franchise, such municipality shall be made a party. If the statute, ordinance or franchise is alleged to be unconstitutional, the attorney general ~~or an assistant attorney general shall also be served with a copy of the proceeding and be entitled to be heard also shall be given notice and provided an opportunity to appear and be heard in accordance with the provisions of section 1, and amendments thereto.~~

Sec. 4. K.S.A. 60-1712 and K.S.A. 2015 Supp. 60-224 are hereby repealed.

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

Approved March 21, 2016.

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## CHAPTER 9

### SENATE BILL No. 376

AN ACT concerning law enforcement agencies; relating to reports of missing persons; amending K.S.A. 2015 Supp. 75-712c and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 75-712c is hereby amended to read as follows: 75-712c. (a) (1) All law enforcement agencies of the state of Kansas, or any political subdivision thereof, shall accept and process, without delay, any report of a missing person by any person at any time pursuant to K.S.A. 75-712b through 75-712e, and amendments thereto, and K.S.A. 2015 Supp. 75-712f through 75-712h, and amendments thereto.

(2) No law enforcement agency shall refuse or otherwise fail to accept a missing person report for any reason except when the law enforcement agency:

- (A) Knows the location of the person reported missing;
- (B) has confirmed the safe status of the person reported missing; or
- (C) has confirmed that another law enforcement agency has already completed a report on the missing person incident.

(3) The reports shall be entered ~~as soon as practical~~ into the missing person system of the national crime information center and the missing and unidentified person system of the Kansas bureau of investigation *within two hours of receipt of the minimum data required to enter a record into such system, except as provided in subsection (e)(4).*

(4) The law enforcement agency immediately shall commence an investigation based upon the elements of the initial reports.

(b) The law enforcement agency shall provide the person making such report with contact information and information concerning the national center for missing and exploited children and the national center for missing adults.

(c) Within a reasonable period of time, and in no case longer than 30 calendar days, follow-up forms from the national crime information center or the Kansas bureau of investigation, or both, shall be given to the reporting party, to be completed and returned to the law enforcement agency. The data reported on the follow-up forms shall be entered immediately into the missing person system of the national crime information center and the missing and unidentified person system of the Kansas bureau of investigation.

(d) The reporting party shall be advised to immediately notify the law enforcement agency in the event the missing person returns or is located. Except as provided further, the law enforcement agency shall immediately notify the reporting party if the missing person is located or contacted. The law enforcement agency investigating the report shall not give information to the reporting party if the law enforcement agency has reason to believe the missing person is an adult or an emancipated minor and is staying at or has made contact with a domestic violence or sexual assault program and does not expressly consent to the release of this information. Upon location of or contact by the missing person, the law enforcement agency shall clear the case in the national crime information center and Kansas bureau of investigation databases.

(e) (1) Upon receipt of a missing person report, the law enforcement agency shall immediately determine whether such person may be a high-risk missing person.

(2) Upon obtaining any new information concerning the missing person at any time, the law enforcement agency shall evaluate whether such person may be a high-risk missing person.

(3) A high-risk missing person means any person who is at heightened risk of bodily harm or death, including, but not limited to, persons missing:

- (A) As a result of an abduction;
- (B) under suspicious or known dangerous circumstances;
- (C) more than 30 days;
- (D) who have been designated as high-risk missing persons by another law enforcement agency; or
- (E) under any facts or circumstances that would lead the law enforcement agency to believe such person may be at risk of bodily harm or death.

(4) Upon a determination that a missing person is a high-risk missing person, the law enforcement agency shall immediately and specifically

make such determination known to the missing and unidentified person system of the Kansas bureau of investigation and *cause the information to be entered into* the missing person system of the national crime information center *as soon as possible after the minimum information to make such entry is received.*

Sec. 2. K.S.A. 2015 Supp. 75-712c is hereby repealed.

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

Approved March 21, 2016.

Published in the *Kansas Register* March 31, 2016.

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## CHAPTER 10

### SENATE BILL No. 175\*

AN ACT concerning postsecondary education; relating to the exercise of religious beliefs by student associations.

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

Section 1. As used in sections 1 through 3, and amendments thereto:

(a) “Benefit” means the following:

- (1) Recognition;
- (2) registration;
- (3) the use of facilities of the postsecondary educational institution for meetings or speaking purposes;
- (4) the use of channels of communication of the postsecondary educational institution; and
- (5) funding sources that are otherwise available to other student associations in the postsecondary educational institution.

(b) “Postsecondary educational institution” shall have the same meaning as that term is defined in K.S.A. 74-3201b, and amendments thereto.

(c) “Student” means any person who is enrolled on a full-time or part-time basis in a postsecondary educational institution.

(d) “Religious student association” means an association of students organized around shared religious beliefs.

Sec. 2. No postsecondary educational institution may take any action or enforce any policy that would deny a religious student association any benefit available to any other student association, or discriminate against a religious student association with respect to such benefit, based on such association’s requirement that the leaders or members of such association:

- (a) Adhere to the association’s sincerely held religious beliefs;
- (b) comply with the association’s sincerely held religious beliefs;

(c) comply with the association's sincere religious standards of conduct; or

(d) be committed to furthering the association's religious missions, as such religious beliefs, observance requirements, standards of conduct or missions are defined by the religious student association, or the religion on which the association is based.

Sec. 3. Any student or religious student association aggrieved by a violation of section 2, and amendments thereto, may bring a cause of action against the postsecondary educational institution for such violation and seek appropriate relief, including, but not limited to, monetary damages. Any student or religious student association aggrieved by a violation of section 2, and amendments thereto, also may assert such violation as a defense or counterclaim in any civil or administrative proceedings brought against such student or religious student association.

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

Approved March 22, 2016.

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## CHAPTER 11

House Substitute for SENATE BILL No. 245\*

AN ACT concerning memorial signs; relating to a DUI memorial signage program; enacting the Kyle Thornburg and Kylie Jobe believe act; duties of the secretary of transportation.

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

Section 1. (a) This section shall be known and may be cited as the Kyle Thornburg and Kylie Jobe believe act.

(b) The secretary of transportation shall establish and implement a DUI memorial signage program for highways under the secretary's jurisdiction, not including highways designated as city-connecting links. As part of such program, the secretary or the secretary's designee shall:

(1) Design a memorial sign that indicates the names and ages of victims killed in an accident where the driver of the other vehicle was under the influence of drugs or alcohol, the date of the accident and any other information as determined by the secretary; and

(2) design a logo, to be copyrighted, for use by organizations for public service announcements or other programs to increase awareness of the dangers of driving under the influence of drugs or alcohol.

(c) Upon the filing of an application for a DUI memorial sign, the secretary may cause such application to be examined for conformity with this section. Such application shall include the date of the accident, the names and ages of the victims which are to be placed upon the memorial

sign and all other information required by the secretary. Upon confirmation by examination of the official accident report that the fatalities were the result of an accident with a driver who was under the influence of drugs or alcohol, in violation of the laws of Kansas, that the accident occurred on a highway that is under the jurisdiction of the secretary, not including city-connecting links, and that the driver of the vehicle the victim was in was not in violation of any Kansas law that was a cause of the accident, the secretary shall place a memorial sign along the highway right-of-way reasonably near the location of the accident, subject to the discretion of the secretary. 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.

(d) An application for a memorial sign as provided by this section may be filed by an immediate family member of a victim killed in the accident. If a request is received from an immediate family member to deny the application or remove the sign, then the application shall be denied or the sign removed.

As used in this section, “immediate family member” means father, mother, child, sibling, grandparent, grandchild or spouse.

(e) In addition to any fees required under subsection (c), the secretary may require a maintenance and renewal fee for such sign every 10 years after the year in which such sign was first placed. The secretary may remove any sign for which a maintenance and renewal fee has been charged but remains unpaid after 90 days.

(f) The secretary of transportation may adopt rules and regulations for the purpose of implementing 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 March 23, 2016.

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CHAPTER 12

House Substitute for SENATE BILL No. 161  
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Highway patrol, Kansas	82, 83	Wichita state university	72, 73
		Wildlife, parks and tourism, Kansas department of	90, 91

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2016, June 30, 2017, and June 30, 2018, for the 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. 75-3722 and K.S.A. 2015 Supp. 68-2320, 74-4914d, 74-4920, 74-50,107, 74-99b34, 75-2319 and 79-34,161 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, 2016, June 30, 2017, and June 30, 2018, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, capital improvement projects, fees, receipts, 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.

STATE BANK COMMISSIONER

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 32(a) of chapter 104 of the 2015 Session Laws of Kansas on the bank commissioner fee fund (094-00-2811-4000) of the state bank commissioner is hereby decreased from \$10,607,989 to \$10,599,285.

(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 75-1308, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$1,500,000 from the bank commissioner fee fund (094-00-2811-5100) of the state bank commissioner to the state general fund.

Sec. 3.

STATE BANK COMMISSIONER

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 32(a) of chapter 104 of the 2015 Session Laws of Kansas on the bank commissioner fee fund (094-00-2811-4000) of the state bank commissioner is hereby decreased from \$11,043,185 to \$11,000,634.

Sec. 4.

KANSAS BOARD OF BARBERING

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 33(a) of chapter 104 of the 2015 Session Laws of Kansas on the board of barbering fee fund (100-00-2704-0100) of the Kansas board of barbering is hereby decreased from \$174,366 to \$163,763.

Sec. 5.

KANSAS BOARD OF BARBERING

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 33(a) of chapter 104 of the 2015 Session Laws of Kansas on the board of barbering fee fund (100-00-2704-0100) of the Kansas board of barbering is hereby increased from \$176,688 to \$177,377.

Sec. 6.

KANSAS STATE BOARD OF COSMETOLOGY

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 254(a) of chapter 104 of the 2015 Session Laws of Kansas on the cosmetology fee fund

(149-00-2706-0100) of the Kansas state board of cosmetology is hereby decreased from \$971,159 to \$961,159.

Sec. 7.

#### KANSAS BOARD OF COSMETOLOGY

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 254(a) of chapter 104 of the 2015 Session Laws of Kansas on the cosmetology fee fund (149-00-2706-0100) of the Kansas board of cosmetology is hereby increased from \$979,621 to \$996,698.

Sec. 8.

#### STATE DEPARTMENT OF CREDIT UNIONS

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 37(a) of chapter 104 of the 2015 Session Laws of Kansas on the credit union fee fund (159-00-2026-0100) of the state department of credit unions is hereby decreased from \$1,193,175 to \$1,192,944.

Sec. 9.

#### KANSAS BOARD OF EXAMINERS IN 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, 2016, by section 40(a) of chapter 104 of the 2015 Session Laws of Kansas on the hearing instrument board fee fund (266-00-2712-9900) of the Kansas board of examiners in fitting and dispensing of hearing instruments is hereby increased from \$25,657 to \$26,664.

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 40(a) of chapter 104 of the 2015 Session Laws of Kansas on the hearing instrument litigation fund (266-00-2136-2136) of the Kansas board of examiners in fitting and dispensing of hearing instruments is hereby decreased from \$3,500 to \$2,500.

Sec. 10.

#### KANSAS BOARD OF EXAMINERS IN FITTING AND DISPENSING OF HEARING INSTRUMENTS

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 40(a) of chapter 104 of the 2015 Session Laws of Kansas on the hearing instrument litigation fund (266-00-2136-2136) of the Kansas board of examiners in fitting and dispensing of hearing instruments is hereby decreased from \$3,500 to \$2,500.

Sec. 11.

#### BOARD OF NURSING

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 41(a) of chapter



104 of the 2015 Session Laws of Kansas on the board of nursing fee fund (482-00-2716-0200) of the board of nursing is hereby increased from \$2,397,402 to \$2,430,696.

Sec. 12.

#### BOARD OF NURSING

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 41(a) of chapter 104 of the 2015 Session Laws of Kansas on the board of nursing fee fund (482-00-2716-0200) of the board of nursing is hereby increased from \$2,430,848 to \$2,468,723.

Sec. 13.

#### BOARD OF EXAMINERS IN OPTOMETRY

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 42(a) of chapter 104 of the 2015 Session Laws of Kansas on the optometry fee fund (488-00-2717-0100) of the board of examiners in optometry is hereby increased from \$107,277 to \$122,277.

Sec. 14.

#### BOARD OF EXAMINERS IN OPTOMETRY

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 42(a) of chapter 104 of the 2015 Session Laws of Kansas on the optometry fee fund (488-00-2717-0100) of the board of examiners in optometry is hereby increased from \$109,591 to \$124,591.

Sec. 15.

#### STATE BOARD OF PHARMACY

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 43(a) of chapter 104 of the 2015 Session Laws of Kansas on the state board of pharmacy fee fund (531-00-2718-0100) of the state board of pharmacy is hereby increased from \$1,138,888 to \$1,399,519.

Sec. 16.

#### OFFICE OF THE SECURITIES COMMISSIONER OF KANSAS

(a) On the effective date of this act, the investor education fund (625-00-2242-2240) of the office of the securities commissioner of Kansas is hereby redesignated as the investor education and protection fund of the office of the securities commissioner.

Sec. 17.

#### LEGISLATIVE COORDINATING COUNCIL

(a) On the effective date of this act, of the \$540,717 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 50(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general

fund in the legislative coordinating council — operations account (422-00-1000-0100), the sum of \$65,015 is hereby lapsed.

Sec. 18.

LEGISLATURE

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

Operations (including official hospitality) (428-00-1000-0103).....	\$133,255
Litigation expenditures.....	\$50,000

(b) On the effective date of this act, of the \$3,000,000 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 52(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the efficiency analysis review account (428-00-1000-0530), the sum of \$133,262 is hereby lapsed.

Sec. 19.

DIVISION OF POST AUDIT

(a) On the effective date of this act, of the \$2,352,344 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 54(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operations (including legislative post audit committee) account (540-00-1000-0100), the sum of \$1,501 is hereby lapsed.

Sec. 20.

DIVISION OF POST AUDIT

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

Operations (including legislative post audit committee) (540-00-1000-0100) .....	\$61,570
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Sec. 21.

ATTORNEY GENERAL

(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 (082-00-1000-0103) .....	\$50,000
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(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 and 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:

Scrap metal theft reduction fee fund.....	No limit
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Sec. 22.

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, 2017,

all moneys now and hereafter lawfully credited to and available in such fund or funds, except that expenditures shall not exceed the following:

Scrap metal theft reduction fee fund..... No limit

Sec. 23.

STATE TREASURER

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 62(a) of chapter 104 of the 2015 Session Laws of Kansas on the state treasurer operating fund (670-00-2374-2300) of the state treasurer is hereby increased from \$1,559,726 to \$1,614,841.

(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 shall not exceed the following:

KS ABLE savings expense fund (670-00-2177-2177)..... No limit

(c) Notwithstanding the provisions of K.S.A. 2015 Supp. 75-648, and amendments thereto, or any other statute, on the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$50,000 from the Kansas postsecondary education savings expense fund (670-00-2096-2000) of the state treasurer to the KS ABLE savings expense fund (670-00-2177-2177) of the state treasurer.

Sec. 24.

STATE TREASURER

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 63(a) of chapter 104 of the 2015 Session Laws of Kansas on the state treasurer operating fund (670-00-2374-2300) of the state treasurer is hereby increased from \$1,582,666 to \$1,637,781: *Provided*, That, notwithstanding the provisions of the uniform unclaimed property act, K.S.A. 58-3934 et seq., and amendments thereto, or any other statute, of all the moneys received under the uniform unclaimed property act, K.S.A. 58-3934 et seq., and amendments thereto, during fiscal year 2017, the state treasurer is hereby authorized and directed to credit the first \$1,610,035 received and deposited in the state treasury to the state treasurer operating 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 shall not exceed the following:

KS ABLE savings expense fund (670-00-2177-2177)..... No limit

(c) Notwithstanding the provisions of K.S.A. 2015 Supp. 75-648, and amendments thereto, or any other statute, on July 1, 2016, or as soon

thereafter as moneys are available, the director of accounts and reports shall transfer \$50,000 from the postsecondary education saving program expense fund (670-00-2096-2000) of the state treasurer to the KS ABLE savings expense fund (670-00-2177-2177) of the state treasurer.

Sec. 25.

#### INSURANCE DEPARTMENT

(a) On July 1, 2016, the transfer of \$2,000,000 from the insurance department service regulation fund (331-00-2270-2400) of the insurance department to the state general fund by the director of accounts and reports on July 1, 2016, October 1, 2016, January 1, 2017, and April 1, 2017, or as soon thereafter each date as moneys are available, as authorized by section 65(c) of chapter 104 of the 2015 Session Laws of Kansas, is hereby increased to \$2,250,000 on July 1, 2016, October 1, 2016, January 1, 2017, and April 1, 2017, notwithstanding the provisions of K.S.A. 40-112, and amendments thereto, or any other statute.

Sec. 26.

#### KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

(a) On July 1, 2016, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 38-2102, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$7,200,000 from the Kansas endowment for youth fund (365-00-7000-2000) to the state general fund.

(b) On July 1, 2016, notwithstanding the provisions of K.S.A. 38-2102, and amendments thereto, the amount prescribed by K.S.A. 38-2102(d)(4), and amendments thereto, to be transferred on July 1, 2016, by the director of accounts and reports from the Kansas endowment for youth fund to the children's initiatives fund is hereby decreased to \$42,000,000.

(c) On July 1, 2016, the provisions of section 73(d) of chapter 104 of the 2015 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

Sec. 27.

#### STATE CORPORATION COMMISSION

(a) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$100,000 from the public service regulation fund of the state corporation commission to the state general fund.

Sec. 28.

#### STATE CORPORATION COMMISSION

(a) On July 1, 2016, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$100,000 from the public service regulation fund of the state corporation commission to the state general fund.

Sec. 29.

CITIZENS' UTILITY RATEPAYER BOARD

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 78(a) of chapter 104 of the 2015 Session Laws of Kansas on the utility regulatory fee fund (122-00-2030-2000) of the citizens' utility ratepayer board is hereby increased from \$860,390 to \$953,390.

Sec. 30.

DEPARTMENT OF ADMINISTRATION

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

Debt service refunding (173-00-1000-0463) ..... \$397,678

(b) On the effective date of this act, of the \$1,417,070 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 80(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the budget analysis account (173-00-1000-0520), the sum of \$79,985 is hereby lapsed.

(c) On the effective date of this act, during fiscal year 2016, the aggregate amount lapsed from appropriations from the state general fund and amounts transferred from special revenue funds pursuant to section 80(s) of chapter 104 of the 2015 Session Laws of Kansas is hereby decreased from \$15,000,000 or more to \$7,000,000 or more.

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, 2017, the following:

Debt service refunding (173-00-1000-0463) ..... \$399,480

(b) On July 1, 2016, of the \$65,317,724 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 81(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the KPERS bond debt service account (173-00-1000-0440), the sum of \$3,654 is hereby lapsed.

(c) On July 1, 2016, the director of accounts and reports shall transfer all moneys in the Landon state office building repair expense fund (173-00-2937-2937) to the state general fund. On July 1, 2016, all liabilities of the Landon state office building repair expense fund are hereby transferred to and imposed on the state general fund and the Landon state office building repair expense fund is hereby abolished.

(d) On July 1, 2016, the director of accounts and reports shall transfer all moneys in the MacVicar avenue assessment expense fund (173-00-2939-2939) to the state general fund. On July 1, 2016, all liabilities of the MacVicar avenue assessment expense fund are hereby transferred to and

imposed on the state general fund and the MacVicar avenue assessment expense fund is hereby abolished.

Sec. 32.

STATE BOARD OF TAX APPEALS

(a) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$100,000 from the BOTA filing fee fund (562-00-2240-2240) of the state board of tax appeals to the state general fund.

Sec. 33.

DEPARTMENT OF REVENUE

(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 (565-00-1000-0303) ..... \$500,000

(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 shall not exceed the following:

State charitable gaming regulation fund (565-00-2381-2385).....	No limit
Charitable gaming refund fund (565-00-9001-9001) .....	No limit
Commercial driver’s license drive test fee fund (565-00-2816-2816) .....	No limit
DUI-IID designation fund (565-00-2380-2370).....	No limit

(c) On the effective date of this act, the director of accounts and reports shall transfer all moneys in the hazmat fee fund (565-00-2365-2300) of the department of revenue to the state general fund. On the effective date of this act, all liabilities of the hazmat fee fund (565-00-2365-2300) of the department of revenue are hereby transferred to and imposed on the commercial driver’s license drive test fee fund (565-00-2816-2816) of the department of revenue and the hazmat fee fund (565-00-2365-2300) of the department of revenue is hereby abolished.

(d) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, pursuant to section 88(b) of chapter 104 of the 2015 Session Laws of Kansas on the division of vehicles operating fund (565-00-2089-2020) of the department of revenue is hereby decreased from \$46,570,956 to \$46,207,510.

Sec. 34.

DEPARTMENT OF REVENUE

(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 (565-00-1000-0303) ..... \$1,400,000

(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:

State charitable gaming regulation fund (565-00-2381-2385).....	No limit
Charitable gaming refund fund (565-00-9001-9001) .....	No limit
Commercial driver’s license drive test fee fund (565-00-2816-2816) .....	No limit
DUI-IID designation fund (565-00-2380-2370).....	No limit

(c) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, pursuant to section 89(b) of chapter 104 of the 2015 Session Laws of Kansas on the division of vehicles operating fund (565-00-2089-2020) of the department of revenue is hereby increased from \$45,439,242 to \$47,475,191.

Sec. 35.

DEPARTMENT OF COMMERCE

(a) On the effective date of this act, of the \$8,880,913 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 94(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the operating grant (including official hospitality) account (300-00-1900-1110), the sum of \$1,997,579 is hereby lapsed.

(b) On the effective date of this act, of the \$1,752,475 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 94(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the rural opportunity zones program account (300-00-1900-1150), the sum of \$750,000 is hereby lapsed.

(c) 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 shall not exceed the following:

AJLA special revenue fund .....	No limit
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(d) On the effective date of this act, the director of accounts and reports shall transfer all moneys in the Kansas partnership fund (300-00-7525-7020) of the department of commerce to the state general fund. On the effective date of this act, all liabilities of the Kansas partnership fund (300-00-7525-7020) of the department of commerce are hereby transferred to and imposed on the job creation program fund (300-00-2467-2467) of the department of commerce and the Kansas partnership fund (300-00-7525-7020) of the department of commerce is hereby abolished.

(e) On the effective date of this act, the director of accounts and

reports shall transfer all moneys in the Kansas existing industry expansion fund (300-00-2370-2370) of the department of commerce to the state general fund. On the effective date of this act, all liabilities of the Kansas existing industry expansion fund (300-00-2370-2370) of the department of commerce are hereby transferred to and imposed on the job creation program fund (300-00-2467-2467) of the department of commerce and the Kansas existing industry expansion fund (300-00-2370-2370) of the department of commerce is hereby abolished.

(f) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$4,678,230 from the state economic development initiatives fund to the state general fund.

[ † ]

Sec. 36.

DEPARTMENT OF COMMERCE

(a) On July 1, 2016, of the \$1,749,879 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 95(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the rural opportunity zones program account (300-00-1900-1150), the sum of \$500,000 is hereby lapsed.

(b) On July 1, 2016, of the \$1,353,181 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 95(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the innovation growth program account (300-00-1900-1187), the sum of \$1,353,181 is hereby lapsed.

(c) On July 1, 2016, of the \$431,587 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 95(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the employment incentive for persons with a disability account (300-00-1900-1189), the sum of \$431,587 is hereby lapsed.

(d) 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:

AJLA special revenue fund ..... No limit

(e) On July 1, 2016, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$2,284,768 from the state economic development initiatives fund (300-00-1900-1100) to the state general fund.



[ † ]

## Sec. 37.

## DEPARTMENT OF LABOR

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 98(b) of chapter 104 of the 2015 Session Laws of Kansas on the federal indirect cost offset fund (296-00-2302-2280) of the department of labor is hereby decreased from \$107,116 to \$90,460.

(b) In addition to the other purposes for which expenditures may be made by the above agency from the special employment security fund (296-00-2120-2080) for fiscal year 2016, expenditures may be made by the above agency from the special employment security fund for fiscal year 2016 for the following capital improvement projects: Payment of rehabilitation and repair projects: *Provided*, That expenditures from the special employment security fund for fiscal year 2016 for such capital improvement purposes shall not exceed \$115,850; *Provided further*, That all expenditures from this fund for any such capital improvement purpose shall be in addition to any expenditure limitations imposed on the special employment security fund for fiscal year 2016.

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 192(d) of chapter 104 of the 2015 Session Laws of Kansas for the payment of rehabilitation and repair projects on the workmen's compensation fee fund (296-00-2124-2220) of the department of labor is hereby decreased from \$152,500 to \$115,850.

## Sec. 38.

## DEPARTMENT OF LABOR

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 99(b) of chapter 104 of the 2015 Session Laws of Kansas on the federal indirect cost offset fund (296-00-2302-2280) of the department of labor is hereby decreased from \$110,730 to \$93,370.

(b) In addition to the other purposes for which expenditures may be made by the above agency from the special employment security fund (296-00-2120-2080) for fiscal year 2017, expenditures may be made by the above agency from the special employment security fund for fiscal year 2017 for the following capital improvement projects: payment of rehabilitation and repair projects: *Provided*, That expenditures from the special employment security fund for fiscal year 2017 for such capital improvement purposes shall not exceed \$257,500; *Provided further*, That all expenditures from this fund for any such capital improvement purpose shall be in addition to any expenditure limitations imposed on the special employment security fund for fiscal year 2017.

(c) On July 1, 2016, the expenditure limitation for the payment of

rehabilitation and repair projects established for the fiscal year ending June 30, 2017, by section 193(d) of chapter 104 of the 2015 Session Laws of Kansas on the workmen's compensation fee fund (296-00-2124-2220) of the department of labor is hereby increased from \$195,000 to \$257,500.

Sec. 39.

**KANSAS COMMISSION ON VETERANS AFFAIRS OFFICE**

(a) On the effective date of this act, any unencumbered balance in each of the following accounts of the state institutions building fund is hereby lapsed: Veterans home Donlon hall sprinkler system (694-00-8100-7002); veterans home sidewalks (694-00-8100-7003); veterans home driveway redesign (694-00-8100-7004); KVH Timmerman triplett (694-00-8100-8277); and KVH Donlon hall roof replace (694-00-8100-8278).

(b) On the effective date of this act, of the \$100,000 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 194(b) of chapter 104 of the 2015 Session Laws of Kansas from the state institutions building fund in the veterans' home rehabilitation and repair projects account (694-00-8100-8250), the sum of \$15,251 is hereby lapsed.

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 100(b) of chapter 104 of the 2015 Session Laws of Kansas on the veterans' home fee fund (694-00-2236-2200) of the Kansas commission on veterans affairs office is hereby increased from \$2,424,485 to \$2,707,723.

(d) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 100(b) of chapter 104 of the 2015 Session Laws of Kansas on the soldiers home fee fund (694-00-2241-2100) of the Kansas commission on veterans affairs office is hereby decreased from \$1,876,107 to \$1,564,416.

(e) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 100(b) of chapter 104 of the 2015 Session Laws of Kansas on the federal domiciliary per diem fund (694-00-3220) of the Kansas commission on veterans affairs office is hereby increased from \$1,493,981 to \$1,575,344.

(f) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 100(b) of chapter 104 of the 2015 Session Laws of Kansas on the federal long term care per diem fund (694-00-3232) of the Kansas commission on veterans affairs office is hereby increased from \$6,840,838 to \$7,917,167.

(g) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 100(b) of chapter 104 of the 2015 Session Laws of Kansas on the commission on veterans affairs federal fund (694-00-3241-3340) of the Kansas commission on veterans affairs office is hereby increased from \$183,498 to \$185,653.

Sec. 40.

KANSAS COMMISSION ON VETERANS AFFAIRS OFFICE

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 101(b) of chapter 104 of the 2015 Session Laws of Kansas on the veterans' home fee fund (694-00-2236-2200) of the Kansas commission on veterans affairs office is hereby increased from \$2,581,461 to \$3,064,113.

(b) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 101(b) of chapter 104 of the 2015 Session Laws of Kansas on the soldier's home fee fund (694-00-2241-2100) of the Kansas commission on veterans affairs office is hereby decreased from \$1,816,726 to \$1,569,621.

(c) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 101(b) of chapter 104 of the 2015 Session Laws of Kansas on the federal domiciliary per diem fund (694-00-3220) of the Kansas commission on veterans affairs office is hereby increased from \$1,459,145 to \$1,599,150.

(d) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 101(b) of chapter 104 of the 2015 Session Laws of Kansas on the federal long term care per diem fund (694-00-3232) of the Kansas commission on veterans affairs office is hereby increased from \$6,121,833 to \$7,517,100.

(e) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 101(b) of chapter 104 of the 2015 Session Laws of Kansas on the commission on veterans affairs federal fund (694-00-3241-3340) of the Kansas commission on veterans affairs office is hereby increased from \$194,846 to \$196,863.

(f) On July 1, 2016, of the \$1,647,952 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 101(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditure — Kansas veterans' home account (694-00-1000-0503), the sum of \$600,000 is hereby lapsed.

(g) There is appropriated for the above agency from the state institutions building fund for the fiscal year ending June 30, 2017, for the capital improvement project or projects specified, the following:

Soldiers' home rehabilitation and repair projects (694-00-8100-7100) .....	\$161,500
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Sec. 41.

DEPARTMENT OF HEALTH AND ENVIRONMENT —  
DIVISION OF PUBLIC HEALTH

(a) 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 shall not exceed the following:

Hospital preparedness and response program for Ebola —	
federal fund.....	No limit

Sec. 42.

DEPARTMENT OF HEALTH AND ENVIRONMENT —  
DIVISION OF PUBLIC HEALTH

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

Primary care — safety net clinics.....	\$378,000
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(b) On July 1, 2016, the provisions of section 103(c) of chapter 104 of the 2015 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

(c) 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:

Hospital preparedness and response program for Ebola —	
federal fund.....	No limit

Sec. 43.

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, 2016, the following:

Other medical assistance (264-00-1000-3026) .....	\$44,926,151
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(b) On the effective date of this act, of the \$17,293,612 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 104(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the children’s health insurance program account (264-00-1000-0060), the sum of \$17,293,612 is hereby lapsed.

(c) On the effective date of this act, of the \$10,051,271 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 104(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the health policy operating expenditures account (264-00-1000-0010), the sum of \$357,234 is hereby lapsed.

(d) On the effective date of this act, of the \$79,635 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 104(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the office of the inspector general account (264-00-1000-0050), the sum of \$58,551 is hereby lapsed.

(e) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 104(b) of chap-

ter 104 of the 2015 Session Laws of Kansas on the medical programs fee fund (264-00-2395-0110) of the department of health and environment — division of health care finance is hereby increased from \$87,782,913 to \$91,292,513.

Sec. 44.

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, 2017, the following:

Other medical assistance (264-00-1000-3026) ..... \$4,608,475

(b) On July 1, 2016, of the \$17,293,612 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 105(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the children’s health insurance program account (264-00-1000-0060), the sum of \$17,293,612 is hereby lapsed.

(c) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 105(b) of chapter 104 of the 2015 Session Laws of Kansas on the medical programs fee fund (264-00-2395-0110) of the department of health and environment — division of health care finance is hereby increased from \$79,354,660 to \$86,370,660.

Sec. 45.

DEPARTMENT OF HEALTH AND ENVIRONMENT —  
DIVISION OF ENVIRONMENT

(a) 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 shall not exceed the following:

Intoxilyzer replacement — federal fund..... No limit

Sec. 46.

DEPARTMENT OF HEALTH AND ENVIRONMENT —  
DIVISION OF ENVIRONMENT

(a) 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:

Intoxilyzer replacement — federal fund..... No limit

Environmental stewardship — federal fund ..... No limit

Sec. 47.

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, 2016, the following:

Osawatomie state hospital — operating expenditures (039-00-1000-0100).....	\$2,000,000
Larned state hospital — operating expenditures (039-00-1000-0103).....	\$875,231

(b) On the effective date of this act, of the \$305,621,502 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 108(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the LTC — medicaid assistance — NF account (039-00-1000-0520), the sum of \$21,764,122 is hereby lapsed.

(c) On the effective date of this act, of the \$268,455,355 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 108(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the community based services account (039-00-1000-3003), the sum of \$1,904,295 is hereby lapsed.

(d) 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 shall not exceed the following:

Indirect cost fund.....	No limit
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(e) On the effective date of this act, and on other occasions during fiscal year 2016 when necessary as determined by the secretary of the Kansas department for aging and disability services, the director of accounts and reports shall transfer amounts specified by the secretary of the Kansas department for aging and disability services, which amounts constitute reimbursements, credits and other amounts received by the Kansas department for aging and disability services for activities related to federal programs, from specified special revenue funds of the Kansas department for aging and disability services, to the indirect cost fund of the Kansas department for aging and disability services.

(f) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 108(b) of chapter 104 of the 2015 Session Laws of Kansas on the problem gambling and addictions grant fund (039-00-2371-2371) of the Kansas department for aging and disability services is hereby decreased from no limit to \$5,920,102.

(g) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 108(b) of chapter 104 of the 2015 Session Laws of Kansas on the Osawatomie state

hospital fee fund (494-00-2079-4200) of the Kansas department for aging and disability services is hereby increased from \$8,576,414 to \$10,076,414.

(h) On the effective date of this act, of the \$17,511,551 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 108(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the Larned state hospital — sexual predator treatment program account (410-00-1000-0200), the sum of \$26,692 is hereby lapsed.

(i) On the effective date of this act, of the \$9,826,042 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 108(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the Parsons state hospital and training center — operating expenditures account (507-00-1000-0100), the sum of \$117,068 is hereby lapsed.

(j) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 108(b) of chapter 104 of the 2015 Session Laws of Kansas on the Larned state hospital fee fund (410-00-2073-2100) of the Kansas department for aging and disability services is hereby increased from \$4,445,594 to \$4,449,444.

(k) On the effective date of this act, the expenditures limitation established for the fiscal year ending June 30, 2016, by section 108(b) of chapter 104 of the 2015 Session Laws of Kansas on the title XIX fund (039-00-2595-4130) of the Kansas department for aging and disability services is hereby decreased from \$46,014,124 to \$45,963,785.

Sec. 48.

KANSAS DEPARTMENT FOR AGING AND DISABILITY SERVICES

(a) On July 1, 2016, of the \$305,121,668 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 109(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the LTC — medicaid assistance - NF account (039-00-1000-0520), the sum of \$33,708,668 is hereby lapsed.

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

Community aid .....	\$14,416,206
SPTP Reintegration (410-00-1000-0400).....	\$5,298,827
Osawatomie state hospital — certified care .....	\$0

(c) On July 1, 2016, of the \$268,455,355 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 109(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the community based services account (039-00-1000-3003), the sum of \$4,348,227 is hereby lapsed.

(d) On July 1, 2016, of the \$41,426,288 appropriated for the above

agency for the fiscal year ending June 30, 2017, by section 109(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the mental health and retardation services aid and assistance account (039-00-1000-4001), the sum of \$13,266,855 is hereby lapsed.

(e) On July 1, 2016, the provisions of section 109(c) of chapter 104 of the 2015 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

(f) 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:

Indirect cost fund.....	No limit
Kansas national background check program — federal fund (039-00-3032-3132) .....	No limit

(g) On July 1, 2016, and on other occasions during fiscal year 2017 when necessary as determined by the secretary for aging and disability services, the director of accounts and reports shall transfer amounts specified by the secretary for aging and disability services, which amounts constitute reimbursements, credits and other amounts received by the Kansas department for aging and disability services for activities related to federal programs, from specified special revenue funds of the Kansas department for aging and disability services, to the indirect cost fund of the Kansas department for aging and disability services.

(h) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 109(b) of chapter 104 of the 2015 Session Laws of Kansas on the problem gambling and addictions grant fund (039-00-2371-2371) of the Kansas department for aging and disability services is hereby decreased from no limit to \$5,920,057.

(i) On July 1, 2016, the expenditure limitation for official hospitality established for the fiscal year ending June 30, 2017, by section 109(a) of chapter 104 of the 2015 Session Laws of Kansas on the Larned state hospital — operating expenditures account (410-00-1000-0103) of the state general fund of the Kansas department for aging and disability services is hereby increased from \$150 to \$500.

(j) On July 1, 2016, of the \$27,348,732 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 109(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the Larned state hospital — operating expenditures account (410-00-1000-0103), the sum of \$207,020 is hereby lapsed.

(k) On July 1, 2016, of the \$20,207,788 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 109(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general



fund in the Larned state hospital — sexual predator treatment program account (410-00-1000-0200), the sum of \$5,325,519 is hereby lapsed.

(l) On July 1, 2016, of the \$13,763,917 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 109(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the Osawatometie state hospital — operating expenditures account (494-00-1000-0100), the sum of \$1,527,264 is hereby lapsed.

(m) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 109(b) of chapter 104 of the 2015 Session Laws of Kansas on the Osawatometie state hospital fee fund (494-00-2079-4200) of the Kansas department for aging and disability services is hereby increased from \$8,497,648 to \$9,997,648.

(n) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 109(b) of chapter 104 of the 2015 Session Laws of Kansas on the Larned state hospital fee fund (410-00-2073-2100) of the Kansas department for aging and disability services is hereby increased from \$4,438,013 to \$4,441,913.

[ † ]

(p) On the effective date of this act, of the \$10,637,411 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 109(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the Parsons state hospital and training center — operating expenditures account (507-00-1000-0100), the sum of \$117,068 is hereby lapsed.

Sec. 49.

**KANSAS DEPARTMENT FOR CHILDREN AND FAMILIES**

(a) On the effective date of this act, of the \$119,261,255 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 110(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the youth services aid and assistance account (629-00-1000-7020), the sum of \$3,713,548 is hereby lapsed.

Sec. 50.

**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, 2017, the following:

Youth services aid and assistance (629-00-1000-7020) ..... \$4,995,383

(b) On July 1, 2016, the provisions of section 111(c) of chapter 104 of the 2015 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

(c) On July 1, 2016, or as soon thereafter as moneys are available, the

director of accounts and reports shall transfer \$1,372,333 from the children’s initiatives fund to the state general fund.

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

CIF grants..... \$42,000,000

*Provided*, That the Kansas children’s cabinet shall make appropriation recommendations on the expenditures of moneys in the CIF grants account to the governor regarding children and youth programs and services: *Provided further*, That the governor shall make the final determination concerning the allocation of funding in the CIF grants account: *And provided further*, That all moneys in the CIF grants account expended for fiscal year 2017 shall be monitored, reviewed, assessed and evaluated by the children’s cabinet pursuant to K.S.A. 38-2103, and amendments thereto.

(e) In addition to the other purposes for which expenditures may be made by the above agency from the temporary assistance to needy families federal fund for fiscal year 2017 by section 111(b) of chapter 104 of the Session Laws of Kansas, this or other appropriation act of the 2016 or 2017 regular session of the legislature, expenditures may be made by the above agency from the temporary assistance to needy families federal fund for fiscal year 2017, in an amount not to exceed \$7,237,635 for the purpose of additional funding for programs, projects, improvements, services and other purposes directly or indirectly beneficial to the physical and mental health, welfare, safety and overall well-being of children in Kansas pursuant to K.S.A. 38-2102 and 38-2103, and amendments thereto, as authorized by the children’s cabinet: *Provided, however*, That any such programs, projects, improvements or services shall: (1) Be for those families whose income is less than 200% of the federal poverty level; (2) comply with requirements of the temporary assistance to needy families block grant; and (3) meet any other programmatic requirements of the federal guidelines for temporary assistance to needy families program.

(f) In addition to the other purposes for which expenditures may be made by the Kansas children’s cabinet from the children’s cabinet administration account of the Kansas endowment for youth fund for fiscal year 2017 by section 111(d) of chapter 104 of the 2015 Session Laws of Kansas, this or other appropriation act of the 2016 or 2017 regular session of the legislature, expenditures shall be made by the Kansas children’s cabinet from the children’s cabinet administration account for fiscal year 2017, to determine which state agency shall be the administrative authority for the programs and services funded by the CIF grants account of the children’s initiatives fund during the fiscal year ending June 30, 2017: *Provided*, That if the Kansas children’s cabinet determines that the administrative authority for any such program or service is different than the administrative authority for such program or service in fiscal year

2016, Kansas children’s cabinet shall certify such change to the director of the budget and the director of legislative research: *Provided further*, That upon receipt of such certification, the director of the budget shall direct the director of accounts and reports to create a new account in the children’s initiatives fund in the newly appointed administrative authority and transfer any moneys authorized to be expended on such program or service during fiscal year 2017 from the CIF grants account of the children’s initiatives fund to the newly created account of the children’s initiatives fund: *Provided however*, That the provisions of this subsection shall not apply to the infants and toddlers program of the department of health and environment — division of public health.

Sec. 51.

KANSAS GUARDIANSHIP PROGRAM

(a) On the effective date of this act, of the \$1,153,945 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 112(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the Kansas guardianship program account (261-00-1000-0300), the sum of \$4,680 is hereby lapsed.

Sec. 52.

KANSAS GUARDIANSHIP PROGRAM

(a) On July 1, 2016, of the \$1,154,095 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 113(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the Kansas guardianship program account (261-00-1000-0300), the sum of \$4,680 is hereby lapsed.

Sec. 53.

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:

KPERS — employer contributions (652-00-1000-0100) ...	\$4,819,296
Block grants to USDs (652-00-1000-0500) .....	\$120,112

*Provided*, That, in addition to the other purposes for which expenditures may be made by the above agency from the block grants to USDs account of the state general fund for fiscal year 2016, expenditures shall be made by the above agency from the block grants to USDs account of the state general fund for fiscal year 2016, in the amount of \$120,112 to USD 413 — Chanute.

(b) On the effective date of this act, of the \$4,971,500 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 2(a) of chapter 4 of the 2015 Session Laws of Kansas from the state general fund in the school district juvenile detention facilities and Flint Hills job center grants account (652-00-1000-0290), the sum of \$200,000 is hereby lapsed.

(c) On the effective date of this act, of the \$2,751,326,659 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 2(a) of chapter 4 of the 2015 Session Laws of Kansas from the state general fund in the block grants to USDs account (652-00-1000-0500), the sum of \$20,110,134 is hereby lapsed.

Sec. 54.

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:

KPERS employer contributions (652-00-1000-0100).....	\$4,303,853
Kansas reading success.....	\$2,100,000

(b) On July 1, 2016, of the \$4,971,500 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 3(a) of chapter 4 of the 2015 Session Laws of Kansas from the state general fund in the school district juvenile detention facilities and Flint Hills job center grants account (652-00-1000-0290), the sum of \$200,000 is hereby lapsed.

(c) On July 1, 2016, of the \$2,760,946,624 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 3(a) of chapter 4 of the 2015 Session Laws of Kansas from the state general fund in the block grants to USDs account (652-00-1000-0500), the sum of \$1,195,339 is hereby lapsed.

(d) On July 1, 2016, the provisions of section 3(c) of chapter 4 of the 2015 Session Laws of Kansas are hereby declared null and void and shall have no force and effect.

Sec. 55.

STATE HISTORICAL SOCIETY

(a) On the effective date of this act, of the \$52,605 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 122(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the Kansas humanities council account (288-00-1000-0600), the sum of \$9,469 is hereby lapsed.

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

Operating expenditures (288-00-1000-0083).....	\$9,469
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Sec. 56.

FORT HAYS STATE UNIVERSITY

(a) On the effective date of this act, of the \$32,422,494 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 124(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures (including official hospitality) account (246-00-1000-0013), the sum of \$456,778 is hereby lapsed.

(b) There is appropriated for the above agency from the Kansas ed-

educational building fund for the fiscal year ending June 30, 2016, the following:

Rehabilitation and repair projects (246-00-8001-8318) ..... \$456,778

*Provided*, That, notwithstanding the provisions of K.S.A. 76-6b02, and amendments thereto, or any other statute, in addition to other purposes for which expenditures may be made by the above agency from the rehabilitation and repair projects account of the Kansas educational building fund during fiscal year 2016, expenditures may be made from such account for information technology operations.

(c) 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 shall not exceed the following:

Weist project .....	No limit
Art building project .....	No limit
Applied technology building project .....	No limit

(d) On the effective date of this act, the Leader (newspaper) account of the restricted fees fund (246-00-2510-2040) of Fort Hays state university is hereby redesignated as the tiger media account of the restricted fees fund of Fort Hays state university.

Sec. 57.

FORT HAYS STATE UNIVERSITY

(a) 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 shall not exceed the following:

Weist project .....	No limit
Art building project .....	No limit
Applied technology building project .....	No limit

(b) On July 1, 2016, the Leader (newspaper) account of the restricted fees fund (246-00-2510-2040) of Fort Hays state university is hereby redesignated as the tiger media account of the restricted fees fund of Fort Hays state university.

(c) Any unencumbered balance in excess of \$100 as of June 30, 2016, in each of the following accounts of the Kansas educational building fund for information technology operations is hereby reappropriated for the above agency for fiscal year 2017: Rehabilitation and repair projects.

Sec. 58.

KANSAS STATE UNIVERSITY

(a) On the effective date of this act, of the \$99,674,233 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 126(a) of chapter 104 of the 2015 Session Laws of Kansas from the state

general fund in the operating expenditures (including official hospitality) account (367-00-1000-0003), the sum of \$1,427,497 is hereby lapsed.

(b) On the effective date of this act, of the \$5,000,000 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 126(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the global foods system account (367-00-1000-0190), the sum of \$1,000,000 is hereby lapsed.

(c) There is appropriated for the above agency from the Kansas educational building fund for the fiscal year ending June 30, 2016, the following:

Rehabilitation and repair projects (367-00-8001-8318) ..... \$1,427,497

*Provided*, That, notwithstanding the provisions of K.S.A. 76-6b02, and amendments thereto, or any other statute, in addition to other purposes for which expenditures may be made by the above agency from the rehabilitation and repair projects account of the Kansas educational building fund during fiscal year 2016, expenditures may be made from such account for information technology operations.

Sec. 59.

**KANSAS STATE UNIVERSITY**

(a) On July 1, 2016, of the \$5,000,000 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 127(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the global foods system account (367-00-1000-0190), the sum of \$4,000,000 is hereby lapsed.

(b) Any unencumbered balance in excess of \$100 as of June 30, 2016, in each of the following accounts of the Kansas educational building fund for information technology operations is hereby reappropriated for the above agency for fiscal year 2017: Rehabilitation and repair projects.

(c) On July 1, 2016, of the \$101,798,358 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 127(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures (including official hospitality) account, the sum of \$6,215,861 is hereby lapsed.

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

Salina, college of technology ..... \$6,215,861

Sec. 60.

**KANSAS STATE UNIVERSITY EXTENSION**

**SYSTEMS AND AGRICULTURAL RESEARCH PROGRAMS**

(a) On the effective date of this act, of the \$28,920,003 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 128(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the agricultural experiment stations (including official

hospitality) account (369-00-1000-1030), the sum of \$639,574 is hereby lapsed.

(b) There is appropriated for the above agency from the Kansas educational building fund for the fiscal year ending June 30, 2016, the following:

Rehabilitation and repair projects ..... \$639,574

*Provided*, That, notwithstanding the provisions of K.S.A. 76-6b02, and amendments thereto, or any other statute, in addition to other purposes for which expenditures may be made by the above agency from the rehabilitation and repair projects account of the Kansas educational building fund during fiscal year 2016, expenditures may be made from such account for information technology operations.

Sec. 61.

KANSAS STATE UNIVERSITY EXTENSION SYSTEMS  
AND AGRICULTURAL RESEARCH PROGRAMS

(a) Any unencumbered balance in excess of \$100 as of June 30, 2016, in each of the following accounts of the Kansas educational building fund for information technology operations is hereby reappropriated for the above agency for fiscal year 2017: Rehabilitation and repair projects.

Sec. 62.

KANSAS STATE UNIVERSITY  
VETERINARY MEDICAL CENTER

(a) On the effective date of this act, of the \$9,500,892 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 130(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures (including official hospitality) account (368-00-1000-5003), the sum of \$202,825 is hereby lapsed.

(b) There is appropriated for the above agency from the Kansas educational building fund for the fiscal year ending June 30, 2016, the following:

Rehabilitation and repair projects (368-00-8001-8319) ..... \$202,825

*Provided*, That, notwithstanding the provisions of K.S.A. 76-6b02, and amendments thereto, or any other statute, in addition to other purposes for which expenditures may be made by the above agency from the rehabilitation and repair projects account of the Kansas educational building fund during fiscal year 2016, expenditures may be made from such account for information technology operations.

Sec. 63.

KANSAS STATE UNIVERSITY  
VETERINARY MEDICAL CENTER

(a) Any unencumbered balance in excess of \$100 as of June 30, 2016, in each of the following accounts of the Kansas educational building fund

for information technology operations is hereby reappropriated for the above agency for fiscal year 2017: Rehabilitation and repair projects.

Sec. 64.

EMPORIA STATE UNIVERSITY

(a) On the effective date of this act, of the \$30,815,419 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 132(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures (including official hospitality) account (379-00-1000-0083), the sum of \$424,380 is hereby lapsed.

(b) There is appropriated for the above agency from the Kansas educational building fund for the fiscal year ending June 30, 2016, the following:

Rehabilitation and repair projects (379-00-8001-8318) ..... \$424,380

*Provided*, That, notwithstanding the provisions of K.S.A. 76-6b02, and amendments thereto, or any other statute, in addition to other purposes for which expenditures may be made by the above agency from the rehabilitation and repair projects account of the Kansas educational building fund during fiscal year 2016, expenditures may be made from such account for information technology operations.

Sec. 65.

EMPORIA STATE UNIVERSITY

(a) Any unencumbered balance in excess of \$100 as of June 30, 2016, in each of the following accounts of the Kansas educational building fund for information technology operations is hereby reappropriated for the above agency for fiscal year 2017: Rehabilitation and repair projects.

Sec. 66.

PITTSBURG STATE UNIVERSITY

(a) On the effective date of this act, of the \$33,701,907 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 134(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures (including official hospitality) account (385-00-1000-0063), the sum of \$485,778 is hereby lapsed.

(b) There is appropriated for the above agency from the Kansas educational building fund for the fiscal year ending June 30, 2016, the following:

Rehabilitation and repair projects (385-00-8001-8318) ..... \$485,778

*Provided*, That, notwithstanding the provisions of K.S.A. 76-6b02, and amendments thereto, or any other statute, in addition to other purposes for which expenditures may be made by the above agency from the rehabilitation and repair projects account of the Kansas educational building fund during fiscal year 2016, expenditures may be made from such account for information technology operations.



Sec. 67.

PITTSBURG STATE UNIVERSITY

(a) Any unencumbered balance in excess of \$100 as of June 30, 2016, in each of the following accounts of the Kansas educational building fund for information technology operations is hereby reappropriated for the above agency for fiscal year 2017: Rehabilitation and repair projects.

Sec. 68.

UNIVERSITY OF KANSAS

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

Geological survey (682-00-1000-0170) ..... \$100,000

(b) On the effective date of this act, of the \$127,592,285 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 136(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures (including official hospitality) account (682-00-1000-0023), the sum of \$1,875,228 is hereby lapsed.

(c) There is appropriated for the above agency from the Kansas educational building fund for the fiscal year ending June 30, 2016, the following:

Rehabilitation and repair projects (682-00-8001-8328) ..... \$1,875,228

*Provided*, That, notwithstanding the provisions of K.S.A. 76-6b02, and amendments thereto, or any other statute, in addition to other purposes for which expenditures may be made by the above agency from the rehabilitation and repair projects account of the Kansas educational building fund during fiscal year 2016, expenditures may be made from such account for information technology operations.

Sec. 69.

UNIVERSITY OF KANSAS

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

Geological survey (682-00-1000-0170) ..... \$100,000

(b) Any unencumbered balance in excess of \$100 as of June 30, 2016, in each of the following accounts of the Kansas educational building fund for information technology operations is hereby reappropriated for the above agency for fiscal year 2017: Rehabilitation and repair projects.

Sec. 70.

UNIVERSITY OF KANSAS MEDICAL CENTER

(a) On the effective date of this act, of the \$98,683,034 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 138(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures (including official hospitality) account (683-00-1000-0503), the sum of \$1,484,797 is hereby lapsed.

(b) There is appropriated for the above agency from the Kansas ed-

ucational building fund for the fiscal year ending June 30, 2016, the following:

Rehabilitation and repair projects (683-00-8001-8618) ..... \$1,484,797

*Provided*, That, notwithstanding the provisions of K.S.A. 76-6b02, and amendments thereto, or any other statute, in addition to other purposes for which expenditures may be made by the above agency from the rehabilitation and repair projects account of the Kansas educational building fund during fiscal year 2016, expenditures may be made from such account for information technology operations.

Sec. 71.

#### UNIVERSITY OF KANSAS MEDICAL CENTER

(a) Any unencumbered balance in excess of \$100 as of June 30, 2016, in each of the following accounts of the Kansas educational building fund for information technology operations is hereby reappropriated for the above agency for fiscal year 2017: Rehabilitation and repair projects.

Sec. 72.

#### WICHITA STATE UNIVERSITY

(a) On the effective date of this act, of the \$63,148,842 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 140(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures (including official hospitality) account (715-00-1000-0003), the sum of \$1,003,143 is hereby lapsed.

(b) There is appropriated for the above agency from the Kansas educational building fund for the fiscal year ending June 30, 2016, the following:

Rehabilitation and repair projects (715-00-8001-8318) ..... \$1,003,143

*Provided*, That, notwithstanding the provisions of K.S.A. 76-6b02, and amendments thereto, or any other statute, in addition to other purposes for which expenditures may be made by the above agency from the rehabilitation and repair projects account of the Kansas educational building fund during fiscal year 2016, expenditures may be made from such account for information technology operations.

Sec. 73.

#### WICHITA STATE UNIVERSITY

(a) Any unencumbered balance in excess of \$100 as of June 30, 2016, in each of the following accounts of the Kansas educational building fund for information technology operations is hereby reappropriated for the above agency for fiscal year 2017: Rehabilitation and repair projects.

Sec. 74.

#### STATE BOARD OF REGENTS

(a) On the effective date of this act, of the \$750,000 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 142(a) of chapter 104 of the 2015 Session Laws of Kansas from the state

general fund in the incentive for technical education account (561-00-1000-0110), the sum of \$700,000 is hereby lapsed.

Sec. 75.

STATE BOARD OF REGENTS

(a) On July 1, 2016, of the \$750,000 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 143(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the incentive for technical education account (561-00-1000-0110), the sum of \$700,000 is hereby lapsed.

(b) On July 1, 2016, the director of accounts and reports shall transfer \$900,000 from the postsecondary education performance-based incentives fund of the state board of regents to the state general fund.

Sec. 76.

DEPARTMENT OF CORRECTIONS

(a) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$625,615 from the correctional industries fund (522-00-6126-7300) of the department of corrections to the department of corrections — general fees fund (521-00-2427-2450) of the department of corrections.

(b) On the effective date of this act, of the \$20,124,000 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 144(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the purchase of services account (521-00-1000-0300), the sum of \$570,000 is hereby lapsed.

Sec. 77.

DEPARTMENT OF CORRECTIONS

(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 .....	\$2,449,138
Evidence based juvenile program .....	\$2,000,000

(b) On July 1, 2016, of the \$22,010,385 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 145(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the community corrections account (521-00-1000-0220), the sum of \$1,051,469 is hereby lapsed.

(c) On July 1, 2016, of the \$21,383,874 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 145(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the prevention and graduated sanctions community grants account (521-00-1000-0221), the sum of \$1,000,000 is hereby lapsed.

(d) On July 1, 2016, of the \$18,754,000 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 145(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general

fund in the purchase of services account (521-00-1000-0300), the sum of \$2,673,000 is hereby lapsed.

(e) On July 1, 2016, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$447,350 from the correctional industries fund (522-00-6126-7300) of the department of corrections to the department of corrections — general fees fund (521-00-2427-2450) of the department of corrections.

Sec. 78.

ADJUTANT GENERAL

(a) On the effective date of this act, there is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2016, the following:

Operating expenditures (034-00-1000-0053) .....	\$30,000
Force protection .....	\$340,000

(b) On the effective date of this act, of the amount reappropriated for the above agency for the fiscal year ending June 30, 2016, by section 146(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the disaster relief account (034-00-1000-0200), the sum of \$933,388 is hereby lapsed.

(c) On the effective date of this act, of the \$731,554 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 227(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the debt service — rehabilitation and repair of the state-wide armories account (034-00-1000-8010), the sum of \$40,282 is hereby lapsed.

(d) During the fiscal year ending June 30, 2016, the adjutant general, with the approval of the director of the budget, may transfer any part of any item of appropriation for fiscal year 2016, from the state general fund for the adjutant general to another item of appropriation for fiscal year 2016 from the state general fund for the adjutant general: *Provided*, That the adjutant general 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. 79.

ADJUTANT GENERAL

(a) On July 1, 2016, there is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2017, the following:

Operating expenditures (034-00-1000-0053) .....	\$65,000
Any unencumbered balance in excess of \$100 as of June 30, 2016, in each of the following accounts is hereby reappropriated for fiscal year 2017:	
Force protection	

(b) On July 1, 2016, of the \$730,269 appropriated for the above

agency for the fiscal year ending June 30, 2017, by section 228(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the debt service — rehabilitation and repair of the statewide armories account (034-00-1000-8010), the sum of \$40,282 is hereby lapsed.

(c) During the fiscal year ending June 30, 2017, the adjutant general, with the approval of the director of the budget, may transfer any part of any item of appropriation for the fiscal year ending June 30, 2017, from the state general fund for the adjutant general to another item of appropriation for fiscal year 2017 from the state general fund for the adjutant general. The adjutant general 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. 80.

#### STATE FIRE MARSHAL

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 148(a) of chapter 104 of the 2015 Session Laws of Kansas on the state fire marshal liquefied petroleum gas fee fund (234-00-2608-2600) of the state fire marshal is hereby decreased from \$60,213 to \$52,235.

(b) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$1,000,000 from the fire marshal fee fund (234-00-2330-2000) of the state fire marshal to the state general fund.

Sec. 81.

#### STATE FIRE MARSHAL

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 149(a) of chapter 104 of the 2015 Session Laws of Kansas on the fire marshal fee fund (234-00-2300-2000) of the state fire marshal is hereby increased from \$4,577,735 to \$4,777,735.

(b) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 149(a) of chapter 104 of the 2015 Session Laws of Kansas on the state fire marshal liquefied petroleum gas fee fund (234-00-2608-2600) of the state fire marshal is hereby decreased from \$62,461 to \$54,012.

(c) On July 1, 2016, and January 1, 2017, or as soon thereafter each such date as moneys are available, the director of accounts and reports shall transfer \$375,000 from the fire marshal fee fund (234-00-2330-2000) of the state fire marshal to the state general fund.

Sec. 82.

#### KANSAS HIGHWAY PATROL

(a) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$56,223

from the Kansas highway patrol operations fund (280-00-2034-1100) of the Kansas highway patrol to the state general fund.

(b) In addition to the other purposes for which expenditures may be made by the above agency from the KHP federal forfeiture — federal fund for fiscal year 2016, expenditures may be made by the above agency from the following account or accounts of the KHP federal forfeiture — federal fund for fiscal year 2016 for the following capital improvement project or projects, subject to the expenditure limitations prescribed therefor:

Training academy rehabilitation and repair..... No limit  
*Provided*, That all expenditures from each such capital improvement account shall be in addition to any expenditure limitations imposed on the KHP federal forfeiture — federal fund for fiscal year 2016.

Sec. 83.

KANSAS HIGHWAY PATROL

(a) In addition to the other purposes for which expenditures may be made from the KHP federal forfeiture — federal fund for fiscal year 2017, expenditures may be made by the above agency from the KHP federal forfeiture — federal fund for fiscal year 2017 for the following capital improvement project or projects, subject to the expenditure limitations prescribed therefor:

Training academy rehabilitation and repair..... No limit  
*Provided*, That all expenditures from each such capital improvement account shall be in addition to any expenditure limitations imposed on the KHP federal forfeiture — federal fund for fiscal year 2017.

Sec. 84.

ATTORNEY GENERAL — KANSAS  
BUREAU OF INVESTIGATION

(a) In addition to the other purposes for which expenditures may be made by the above agency from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2016, as authorized by chapter 104 of the 2015 Session Laws of Kansas, this or other appropriation act of the 2016 regular session of the legislature, expenditures may be made by the above agency from such moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2016, for repairs on the parking garage at the Topeka headquarters: *Provided, however*, That expenditures from the state general fund or from any special revenue fund or funds for fiscal year 2016 for such parking garage repairs shall not exceed \$340,000.

Sec. 85.

ATTORNEY GENERAL — KANSAS  
BUREAU OF INVESTIGATION

(a) On July 1, 2016, of the \$250,000 appropriated for the above

agency for the fiscal year ending June 30, 2017, by section 153(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the meth lab cleanup account (083-00-1000-0200), the sum of \$150,000 is hereby lapsed.

(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 shall not exceed the following:

Sexual assault kit grant — federal fund (083-00-3146-3146)..... No limit

(c) In addition to the other purposes for which expenditures may be made by the above agency from moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2017 and from which expenditures may be made for salaries and wages, as authorized by chapter 104 of the 2015 Session Laws of Kansas, this or other appropriation act of the 2016 regular session of the legislature, expenditures may be made by the above agency from such moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2017, from which expenditures may be made for salaries and wages, for progression within the existing pay structure for employees of the Kansas bureau of investigation.

Sec. 86.

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, 2016, by section 158(a) of chapter 104 of the 2015 Session Laws of Kansas on the Kansas commission on peace officers' standards and training fund (529-00-2583-2580) of the Kansas commission on peace officers' standards and training is hereby increased from \$580,116 to \$720,116.

Sec. 87.

KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS AND TRAINING

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 159(a) of chapter 104 of the 2015 Session Laws of Kansas on the Kansas commission on peace officers' standards and training fund (529-00-2583-2580) of the Kansas commission on peace officers' standards and training is hereby increased from \$593,985 to \$603,985.

Sec. 88.

KANSAS DEPARTMENT OF AGRICULTURE

(a) On the effective date of this act, of the \$9,037,072 appropriated for the above agency for the fiscal year ending June 30, 2016, by section 2(a) of chapter 103 of the 2015 Session Laws of Kansas from the state

general fund in the operating expenditures account (046-00-1000-0053), the sum of \$345,710 is hereby lapsed.

(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 shall not exceed the following:

Animal feed regulation program standards .....	No limit
Biofuel infrastructure program .....	No limit
Rural business development grant.....	No limit
Agricultural marketing services grant.....	No limit
AMS farmers market promotion program .....	No limit

(c) On the effective date of this act, the expenditure limitation for the fiscal year ending June 30, 2016, by section 160(b) of chapter 104 of the 2015 Session Laws of Kansas from the veterinary examiners fee fund (046-00-2727-1105) of the Kansas department of agriculture is hereby increased from \$379,072 to \$385,851.

Sec. 89.

KANSAS DEPARTMENT OF AGRICULTURE

(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 (046-00-1000-0053) .....	\$185,710
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(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:

Animal feed regulation program standards .....	No limit
Rural business development grant.....	No limit
Biofuel infrastructure program .....	No limit
Agricultural marketing services grant.....	No limit
AMS farmers market promotion program .....	No limit

Sec. 90.

KANSAS DEPARTMENT OF WILDLIFE,  
PARKS AND TOURISM

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

Travel and tourism operating expenditures (710-00-1900-1901) .....	\$41,208
State parks operating expenditures (710-00-1900-1920)....	\$2,693

(b) On the effective date of this act, of the \$1,747,632 appropriated for the above agency for the fiscal year ending June 30, 2016, by section



166(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the operating expenditures account (710-00-1900-1910), the sum of \$43,901 is hereby lapsed.

(c) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$12,630 from the national guard licenses reimbursement account (710-00-1900-1930) of the state economic development initiatives fund to the state parks operating expenditures account (710-00-1900-1920) of 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 \$1,922 from the national guard permits reimbursement account (710-00-1900-1940) of the state economic development initiatives fund to the state parks operating expenditures account (710-00-1900-1920) of the state economic development initiatives fund.

(e) On the effective date of this act, the expenditure limitation for the fiscal year ending June 30, 2016, by section 166(b) of chapter 104 of the 2015 Session Laws of Kansas on the wildlife fee fund (710-00-2300) of the Kansas department of wildlife, parks and tourism is hereby increased from \$23,666,278 to \$25,066,280.

(f) On the effective date of this act, the expenditure limitation for the fiscal year ending June 30, 2016, by section 166(b) of chapter 104 of the 2015 Session Laws of Kansas on the parks fee fund (710-00-2122) of the Kansas department of wildlife, parks and tourism is hereby decreased from \$7,287,168 to \$7,269,923.

(g) On the effective date of this act, the expenditure limitation for the fiscal year ending June 30, 2016, by section 166(b) of chapter 104 of the 2015 Session Laws of Kansas on the boating fee fund (710-00-2245) of the Kansas department of wildlife, parks and tourism is hereby decreased from \$1,268,001 to \$1,268,000.

(h) 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 shall not exceed the following:

Office of the secretary building fund..... No limit

(i) In addition to the other purposes for which expenditures may be made by the above agency from the wildlife fee fund (710-00-2300) for fiscal year 2016, expenditures may be made by the above agency from the following account or accounts of the wildlife fee fund during fiscal year 2016 for the following capital improvement project or projects, subject to the expenditure limitation prescribed therefor:

Region 2 office water line..... \$75,600

*Provided*, That all expenditures from each such account shall be in ad-

dition to any expenditure limitations imposed on the wildlife fee fund for fiscal year 2016.

(j) In addition to the other purposes for which expenditures may be made by the above agency from the parks fee fund (710-00-2122) for fiscal year 2016, expenditures may be made by the above agency from the following account or accounts of the parks fee fund during fiscal year 2016 for the following capital improvement project or projects, subject to the expenditure limitation prescribed therefor:

Region 2 office water line..... \$40,800

*Provided*, That all expenditures from each such account shall be in addition to any expenditure limitations imposed on the parks fee fund for fiscal year 2016.

(k) In addition to the other purposes for which expenditures may be made by the above agency from the boating fee fund (710-00-2245) for fiscal year 2016, expenditures may be made by the above agency from the following account or accounts of the boating fee fund during fiscal year 2016 for the following capital improvement project or projects, subject to the expenditure limitation prescribed therefor:

Region 2 office water line..... \$3,600

*Provided*, That all expenditures from each such account shall be in addition to any expenditure limitations imposed on the boating fee fund for fiscal year 2016.

(l) On the effective date of this act, the expenditure limitation for the fiscal year ending June 30, 2016, by section 231(k) of chapter 104 of the 2015 Session Laws of Kansas on the public lands major maintenance account of the wildlife fee fund (710-00-2300-3262) of the Kansas department of wildlife, parks and tourism is hereby increased from \$35,000 to \$1,120,000.

(m) On the effective date of this act, the expenditure limitation for the fiscal year ending June 30, 2016, by section 231(p) of chapter 104 of the 2015 Session Laws of Kansas on the public lands major maintenance account of the wildlife restoration fund (710-00-3418-3222) of the Kansas department of wildlife, parks and tourism is hereby decreased from \$600,000 to \$0.

(n) On the effective date of this act, the expenditure limitation for the fiscal year ending June 30, 2016, by section 231(r) of chapter 104 of the 2015 Session Laws of Kansas on the public lands major maintenance account of the sport fish restoration program fund (710-00-3490-3491) of the Kansas department of wildlife, parks and tourism is hereby decreased from \$135,000 to \$0.

(o) On the effective date of this act, the expenditure limitation for the fiscal year ending June 30, 2016, by section 231(r) of chapter 104 of the 2015 Session Laws of Kansas on the dam repairs account of the sport

fish restoration program fund (710-00-3490-3491) of the Kansas department of wildlife, parks and tourism is hereby decreased from \$350,000 to \$0.

Sec. 91.

KANSAS DEPARTMENT OF WILDLIFE, PARKS AND TOURISM

(a) On July 1, 2016, of the \$1,755,492 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 167(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the operating expenditures account (710-00-1900-1910), the sum of \$42,662 is hereby lapsed.

(b) There is appropriated for the above agency from the state economic development initiatives fund for the fiscal year ending June 30, 2017, the following:

Travel and tourism operating expenditures (710-00-1900-1901).....	\$42,662
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(c) 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 shall not exceed the following:

Office of the secretary building fund.....	No limit
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(d) On July 1, 2016, the expenditure limitation for the fiscal year ending June 30, 2017, by section 167(b) of chapter 104 of the 2015 Session Laws of Kansas on the wildlife fee fund (710-00-2300) of the Kansas department of wildlife, parks and tourism is hereby increased from \$24,221,459 to \$25,593,023.

(e) On July 1, 2016, the expenditure limitation for the fiscal year ending June 30, 2017, by section 167(b) of chapter 104 of the 2015 Session Laws of Kansas on the parks fee fund (710-00-2122) of the Kansas department of wildlife, parks and tourism is hereby decreased from \$7,798,549 to \$7,798,290.

(f) On July 1, 2016, the expenditure limitation for the fiscal year ending June 30, 2017, by section 167(b) of chapter 104 of the 2015 Session Laws of Kansas on the boating fee fund (710-00-2245) of the Kansas department of wildlife, parks and tourism is hereby increased from \$1,321,998 to \$1,327,849.

(g) On July 1, 2016, the expenditure limitation for the fiscal year ending June 30, 2017, by section 232(l) of chapter 104 of the 2015 Session Laws of Kansas on the public lands major maintenance account of the wildlife fee fund (710-00-2300-3262) of the Kansas department of wildlife, parks and tourism is hereby increased from \$35,000 to \$1,160,000.

(h) On July 1, 2016, the expenditure limitation for the fiscal year ending June 30, 2017, by section 232(q) of chapter 104 of the 2015 Session Laws of Kansas on the rehabilitation and repair account of the wild-

life restoration fund (710-00-3418-3222) of the Kansas department of wildlife, parks and tourism is hereby decreased from \$675,000 to \$0.

(i) On July 1, 2016, the expenditure limitation for the fiscal year ending June 30, 2017, by section 232(s) of chapter 104 of the 2015 Session Laws of Kansas on the public lands major maintenance account of the sport fish restoration program fund (710-00-3490-3491) of the Kansas department of wildlife, parks and tourism is hereby decreased from \$100,000 to \$0.

(j) On July 1, 2016, the expenditure limitation for the fiscal year ending June 30, 2017, by section 232(s) of chapter 104 of the 2015 Session Laws of Kansas on the dam repairs account of the sport fish restoration program fund (710-00-3490-3491) of the Kansas department of wildlife, parks and tourism is hereby decreased from \$350,000 to \$0.

Sec. 92.

DEPARTMENT OF TRANSPORTATION

(a) 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 and hereafter lawfully credited to and available in such fund or funds, except that expenditures shall not exceed the following:

Conversion of materials and equipment..... No limit

(b) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$2,100,000 from the state highway fund (276-00-4100-0403) 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 2016, 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 2016.

Sec. 93.

DEPARTMENT OF TRANSPORTATION

(a) 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 and hereafter lawfully credited to and available in such fund or funds, except that expenditures shall not exceed the following:

Conversion of materials and equipment..... No limit

(b) On July 1, 2016, October 1, 2016, January 1, 2017, and April 1, 2017, or as soon thereafter each such date as moneys are available, the director of accounts and reports shall transfer \$38,942,667.25 from the state highway fund of the department of transportation (276-00-4100-

0403) to the state general fund: *Provided*, That the transfer of each 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 2017 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 2017: *And provided further*, That on July 1, 2016, the provisions of section 169(i) of chapter 104 of the 2015 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

(c) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 169(c) of chapter 104 of the 2015 Session Laws of Kansas on the buildings — other construction, renovation and repair account of the state highway fund is hereby increased from \$2,290,522 to \$4,276,722.

Sec. 94. (a) During the fiscal years ending June 30, 2016, and June 30, 2017, in addition to the other purposes for which expenditures may be made by the adjutant general from moneys appropriated from the state general fund or any special revenue fund or funds for the adjutant general for fiscal year 2016 or 2017 by chapter 104 of the 2015 Session Laws of Kansas, this act or any other appropriation act of the 2016 or 2017 regular session of the legislature, expenditures shall be made by the adjutant general from the state general fund or from any special revenue fund or funds for fiscal year 2016 or 2017, for and on behalf of the state of Kansas, to sell and convey all of the rights, title and interest in the following tracts of real estate located in Sedgwick county, Kansas, subject to the provisions of this section:

Beginning at a point 650 feet South and 30 feet East of the Northwest corner of the Southwest Quarter of the Southeast Quarter of Section 13, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East along the South line of the tract taken under condemnation by the Board of Education of the City of Wichita, Kansas, a distance of 326 feet; thence South parallel to the West line of said Southeast Quarter a distance of 330 feet; thence West parallel to the South line of said Southeast Quarter a distance of 326 feet more or less to a point 30 feet East of the West line of said Southeast Quarter; thence North on a line 30 feet East of and parallel to the West line of said Southeast Quarter a distance of 330 feet to the point of beginning.

(b) No sale or conveyance of the real property described in subsection (a) shall be authorized or approved by the adjutant general without having first advised and consulted with the joint committee on state building construction.

(c) Prior to the sale or conveyance of the real property described in subsection (a), the state finance council shall approve the sale, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711(c), and amendments thereto. The matter may be submitted to the state finance council for approval at any time, including periods of time during which the legislature is in session.

(d) When the sale is made, the proceeds thereof shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the appropriate account of the state general fund or special revenue fund of the adjutant general as determined by the adjutant general. The adjutant general shall transmit a copy of such determination to the director of legislative research.

(e) The conveyance of real property authorized by this section shall not be subject to the provisions of K.S.A. 2015 Supp. 75-6609, and amendments thereto.

(f) In the event that the adjutant general determines that the legal description of the parcel described by this section is incorrect, the secretary of administration may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the approval of the attorney general.

Sec. 95. (a) During the fiscal year ending June 30, 2016, the director of the budget may transfer any part of any item of appropriation for an information technology project in any cabinet agency account of each special revenue fund appropriated for fiscal year 2016 for such cabinet agency to another item of appropriation for an information technology project in any other cabinet agency account of each special revenue fund appropriated for fiscal year 2016 for such other cabinet agency. The director of the budget shall certify each such amount transferred, and shall transmit a copy of such certification to the director of legislative research.

(b) During the fiscal year ending June 30, 2017, the director of the budget may transfer any part of any item of appropriation for an information technology project in any cabinet agency account of each special revenue fund appropriated for fiscal year 2017 for such cabinet agency to another item of appropriation for an information technology project in any other cabinet agency account of each special revenue fund appropriated for fiscal year 2017 for such other cabinet agency. The director of the budget shall certify each such amount transferred, and shall transmit a copy of such certification to the director of legislative research.

(c) As used in this section, "cabinet agency" means (1) the department of administration, (2) the department of revenue, (3) the department of commerce, (4) the department of labor, (5) the department of

health and environment, (6) the Kansas department for aging and disability services, (7) the Kansas department for children and families, (8) the department of corrections, (9) the adjutant general, (10) the Kansas highway patrol, (11) the Kansas department of agriculture, (12) the Kansas department of wildlife, parks and tourism, and (13) the department of transportation.

Sec. 96. If any fund or account name described by words and the numerical accounting code which follows such fund or account name do not match, it shall be conclusively presumed that the legislature intended that the fund or account name described by words is the correct fund or account name, and such fund or account name described by words shall control over a contradictory or incorrect numerical accounting code.

Sec. 97. (a) On and after July 1, 2016, notwithstanding the provisions of K.S.A. 74-4927, and amendments thereto, or any other statute, no state agency shall pay to the Kansas public employees retirement system any amounts to the group insurance reserve fund during the fiscal year ending June 30, 2017, that constitute such state agency's portion of the state's contribution to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto.

(b) (1) On July 1, 2016, the amount in each account of the state general fund of each state agency that is appropriated for the fiscal year ending June 30, 2017, by chapters 4, 81, 92 or 104 of the 2015 Session Laws of Kansas or by this or other appropriation act of the 2016 or 2017 regular session of the legislature, and that is budgeted for payment to the Kansas public employees retirement system as a contribution during the fiscal year ending June 30, 2017, to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto, as certified by the director of the budget to the director of accounts and reports for the fiscal year ending June 30, 2017, is hereby lapsed from each such account.

(2) On July 1, 2016, the amount in each account of the state economic development initiatives fund of each state agency that is appropriated for the fiscal year ending June 30, 2017, by chapter 104 of the 2015 Session Laws of Kansas or by this or other appropriation act of the 2016 or 2017 regular session of the legislature, and that is budgeted for payment to the Kansas public employees retirement system as a contribution during the fiscal year ending June 30, 2017, to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto, as certified by the director of the budget to the director of accounts and reports for the fiscal year ending June 30, 2017, is hereby lapsed from each such account.

(3) On July 1, 2016, the amount in each account of the state water plan fund of each state agency that is appropriated for the fiscal year ending June 30, 2017, by chapter 104 of the 2015 Session Laws of Kansas or by this or other appropriation act of the 2016 or 2017 regular session of the legislature, and that is budgeted for payment to the Kansas public

employees retirement system as a contribution during the fiscal year ending June 30, 2017, to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto, as certified by the director of the budget to the director of accounts and reports for the fiscal year ending June 30, 2017, is hereby lapsed from each such account.

(4) On July 1, 2016, the amount in each account of the children's initiatives fund of each state agency that is appropriated for the fiscal year ending June 30, 2017, by chapter 104 of the 2015 Session Laws of Kansas or by this or other appropriation act of the 2016 or 2017 regular session of the legislature, and that is budgeted for payment to the Kansas public employees retirement system as a contribution during the fiscal year ending June 30, 2017, to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto, as certified by the director of the budget to the director of accounts and reports for the fiscal year ending June 30, 2017, is hereby lapsed from each such account.

(c) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, provided by chapters 4, 81, 92 or 104 of the 2015 Session Laws of Kansas or by this or other appropriation act of the 2016 or 2017 regular session of the legislature, or by the state finance council, on each special revenue fund in the state treasury is hereby decreased for the fiscal year ending June 30, 2017, by the amount equal to the amount that is budgeted for payment to the Kansas public employees retirement system as a contribution for the fiscal year ending June 30, 2017, to the group insurance reserve fund under K.S.A. 74-4927, and amendments thereto, as certified by the director of the budget to the director of accounts and reports for the fiscal year ending June 30, 2017, from such special revenue fund, or account thereof.

(d) On July 1, 2016, the provisions of section 180(b) of chapter 104 of the 2015 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

(e) At the same time as the director of the budget transmits each certification to the director of accounts and reports pursuant to this section, the director of the budget shall transmit a copy of such certification to the director of legislative research.

Sec. 98. (a) (1) Notwithstanding the provisions of chapter 103 of the 2015 Session Laws of Kansas, K.S.A. 75-3722 or 75-6704, and amendments thereto, or any other statute, during the fiscal year ending June 30, 2016, the director of the budget shall continuously monitor the status of the state general fund with regard to estimated and actual revenues and approved and actual expenditures and demand transfers: *Provided*, That periodically, the director of the budget shall estimate the amount of the unencumbered ending balance of moneys in the state general fund for fiscal year 2016 and the total amount of anticipated expenditures, demand transfers and encumbrances of moneys in the state general fund



for fiscal year 2016: *Provided further*, That, if the amount of such unencumbered ending balance in the state general fund is less than \$100,000,000, the director of the budget shall certify the difference between \$100,000,000 and the amount of such unencumbered ending balance in the state general fund, after adjusting the estimates of the amounts of such demand transfers with regard to new estimates of revenues to the state general fund, where appropriate: *And provided further*, That, the director of the budget, in such manner as the director may determine: (A) Shall determine the amount of moneys appropriated in each account of the state general fund or each special revenue fund appropriated for fiscal year 2016 for any agency of the executive branch of state government that is not required to be expended or encumbered for the fiscal year ending June 30, 2016; and (B) shall certify each such amount: *And provided further*, That, during fiscal year 2016, the director of the budget shall certify each amount appropriated from the state general fund, to the director of accounts and reports and, upon receipt of such certification, the amount so certified is hereby lapsed: *And provided further*, That, during fiscal year 2016, the director of the budget shall certify each amount appropriated from each special revenue fund, to the director of accounts and reports and, upon receipt of such certification, the amount so certified is hereby transferred to the state general fund: *And provided however*, That the total amount transferred or lapsed shall not exceed the amount certified by the director of the budget as the difference between \$100,000,000 and the amount of such unencumbered ending balance in the state general fund: *And 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) Notwithstanding the provisions of K.S.A. 75-3722 or 75-6704, and amendments thereto, or any other statute, during the fiscal year ending June 30, 2017, the director of the budget shall continuously monitor the status of the state general fund with regard to estimated and actual revenues and approved and actual expenditures and demand transfers: *Provided*, That periodically, the director of the budget shall estimate the amount of the unencumbered ending balance of moneys in the state general fund for fiscal year 2017 and the total amount of anticipated expenditures, demand transfers and encumbrances of moneys in the state general fund for fiscal year 2017: *Provided further*, That, if the amount of such unencumbered ending balance in the state general fund is less than \$100,000,000, the director of the budget shall certify the difference between \$100,000,000 and the amount of such unencumbered ending balance in the state general fund, after adjusting the estimates of the amounts of such demand transfers with regard to new estimates of revenues to the state general fund, where appropriate: *And provided further*,

That, the director of the budget, in such manner as the director may determine: (A) Shall determine the amount of moneys appropriated in each account of the state general fund or each special revenue fund appropriated for fiscal year 2017 for any agency of the executive branch of state government that is not required to be expended or encumbered for the fiscal year ending June 30, 2017; and (B) shall certify each such amount: *And provided further*, That, during fiscal year 2017, the director of the budget shall certify each amount appropriated from the state general fund, to the director of accounts and reports and, upon receipt of such certification, the amount so certified is hereby lapsed: *And provided further*, That, during fiscal year 2017, the director of the budget shall certify each amount appropriated from each special revenue fund, to the director of accounts and reports and, upon receipt of such certification, the amount so certified is hereby transferred to the state general fund: *And provided however*, That the total amount transferred or lapsed shall not exceed the amount certified by the director of the budget as the difference between \$100,000,000 and the amount of such unencumbered ending balance in the state general fund: *And 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.

(b) The provisions of this section shall not apply to the legislature or any agency of the legislative branch of state government, or the judicial branch or any agency of the judicial branch of state government.

(c) (1) The provisions of subsection (a)(1) shall not apply to: (A) Any item of appropriation for debt service for payments pursuant to contractual bond obligations; or (B) any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319, and amendments thereto.

(2) The provisions of subsection (a)(2) shall not apply to: (A) Any item of appropriation for debt service for payments pursuant to contractual bond obligations; (B) any item of appropriation for employer contributions for the state of Kansas and employers who are eligible employers as specified in K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto; or (C) any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319, and amendments thereto.

(d) Nothing in this section shall be construed to restrict the number of times that the director of the budget may make a certification under this section.

Sec. 99. During fiscal year 2016 or 2017, if any bonds were issued on or after July 1, 2015, by any state educational institution, as defined by

K.S.A. 76-711, and amendments thereto, or if any not-for-profit entity was formed in conjunction with such state educational institution, using an out-of-state development authority for such bond issuance, then for the fiscal year ending June 30, 2017, each special revenue fund of such state educational institution shall be limited to the total amount included in the governor's budget recommendation from such special revenue fund: *Provided*, That, the attorney general shall certify if any such bonds were issued to the director of the budget: *Provided further*, That, upon receipt of such certification from the attorney general, the director of the budget shall certify the amount of such expenditure limitation for each special revenue fund for fiscal year 2017: *Provided, however*, That the expenditure limitation established by this section shall not apply to grants and federal funds of such state educational institution: *And provided however*, That the expenditure limitation established by this section shall not apply to the university of Kansas medical center: *And provided further*, That, at the same time as the director of the budget determines each such certification, the director of the budget shall transmit a copy of such certification to the director of legislative research.

Sec. 100. Notwithstanding the provisions of any other statute, during the fiscal years ending June 30, 2016, June 30, 2017, and June 30, 2018, no state agency named in chapters 4, 81 or 104 of the 2015 Session Laws of Kansas, this or other appropriation act of the 2016, 2017 or 2018 regular session of the legislature shall expend any moneys appropriated for the fiscal years ending June 30, 2016, June 30, 2017, and June 30, 2018, from the state general fund or in any special revenue fund or funds for any state agency to privatize the operations of the Larned state hospital or the Osawatimie state hospital without prior specific authorization in an act of the legislature or in an appropriation act of the legislature.

Sec. 101. On the effective date of this act, notwithstanding the provisions of any statute, no state agency shall expend any moneys appropriated from the state general fund or from any special revenue fund or funds for the fiscal years ending June 30, 2016, or June 30, 2017, as authorized by chapters 4, 81 or 104 of the 2015 Session Laws of Kansas, this or any other appropriations act of the 2016 or 2017 regular session of the legislature, to include in the health care compact, pursuant to K.S.A. 2015 Supp. 65-6230, and amendments thereto, the administration of medicare (42 U.S.C. § 1395 et seq.) unless the Kansas legislature passes legislation and such legislation is enacted into law specifically authorizing inclusion of the medicare program in such compact.

Sec. 102. (a) During the fiscal year ending June 30, 2017, no expenditures shall be made by any state agency named in this act from moneys appropriated from the state general fund for fiscal year 2017 as authorized by chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, this or other appropriation act of the 2016 or 2017 regular session of the

legislature, to issue additional state obligations payable from the state general fund if the resulting annual debt service for all state obligations payable from the state general fund exceeds the limitation imposed by this section. The maximum annual debt service in fiscal year 2017 on state obligations payable from the state general fund may not exceed an amount equal to 4% of the average of state general fund revenues, excluding revenues constitutionally dedicated for purposes other than payment of state obligations, for the immediately preceding three fiscal years. Such amount shall be determined by the director of the budget in consultation with the director of legislative research.

(b) For the purposes of this section, “state obligations payable from the state general fund” means obligations, including, but not limited to, bonds and lease-purchase agreements in a principal amount greater than \$250,000, which are authorized or reasonably expected to be repaid by appropriations from the state general fund. “State obligations payable from the state general fund” shall not include obligations with respect to which the state director of the budget certifies are reasonably expected to be paid from sources other than the state general fund.

Sec. 103. During the fiscal year ending June 30, 2017, no expenditures shall be made by any state agency named in this act from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2017 as authorized by chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, this or other appropriation act of the 2016 or 2017 regular session of the legislature, to issue bonds or other obligations in a principal amount greater than \$5,000,000 issued to finance or refinance activities and projects of such state agency, using any entity other than the Kansas development finance authority in accordance with the provisions of K.S.A. 74-8901 et seq., and amendments thereto.

Sec. 104. (a) During the fiscal year ending June 30, 2017, in addition to the other purposes for which expenditures may be made by the secretary for children and families, from moneys appropriated from the state general fund or any special revenue fund or funds for the Kansas department for children and families for fiscal year 2017 by this act or any other appropriation act of the 2016 or 2017 regular session of the legislature, expenditures shall be made by the secretary for children and families from the state general fund or from any special revenue fund or funds for fiscal year 2017, for the secretary, on behalf of the state of Kansas, to sell and convey all of the rights, title and interest in the following tracts of real estate located in Neosho county, Kansas, subject to the provisions of this section:

The South Half of the Southeast Quarter (S/2 SE/4) of Section Nineteen (19), Township Twenty-seven (27) South, Range Eighteen (18) East of the 6th P. M., excepting therefrom five (5) tracts of land described as follows:

a. The North Ten (10) acres of the Southeast Quarter of this Southeast Quarter (SE/4 SE/4) of said section Nineteen (19);

b. Beginning at a point on Plummer Avenue, 330 feet south of the northeast corner of the South Half of the Southeast Quarter (S/2 SE/4) of said Section Nineteen (19), thence west parallel with the north line of said eighty, 1320 feet; thence south 330 feet on a line parallel with the east line of said eighty; thence east 1320 feet on a line parallel with the north line of said eighty; thence north along said east line to the point of beginning, containing 10 acres;

c. Beginning at a point 495 feet north of the southeast corner of said Section Nineteen (19), thence north 165 feet to the southeast corner of 10-acre tract previously sold to Guy Umbarger; thence west along the south line of said Umbarger 10-acre tract, 792 feet; thence south on a line parallel to the east line, 165 feet; thence east on a line parallel to said Umbarger tract to point of beginning, containing approximately 3 acres;

d. Beginning at the southeast corner of said Section Nineteen (19), thence west along the south line of said section 690 feet; thence northerly 445 feet; thence easterly 690 feet to a point on the east line of said section, 445 feet north of the southeast corner of said section; thence south along said east line 445 feet to the point of beginning. The above includes 30 feet of road right-of-way along the south side used for Seventh Street and 30 feet of road right-of-way along the east side used for Plummer Avenue. Including the road rights-of-way, the above includes 7.05 acres, more or less; and

e. Beginning at a point 30 feet north of and 690 feet west of the southeast corner of the Southeast Quarter (SE/4) of said Section Nineteen (19); thence west along right-of-way line of present road, 1950 feet, more or less, to the west line of said Southeast Quarter (SE/4); thence north along the west line of said Southeast Quarter (SE/4), 10 feet; thence east parallel to and 10 feet north of the present right-of-way, 1950 feet, more or less, to a point 690 feet west of and 40 feet north of the southeast corner of said Southeast Quarter (SE/4); thence south 10 feet to the point of beginning, containing .44 acres, more or less, condemned for highway purposes.

(b) During fiscal years 2016 and 2017, the real property described in subsection (a) shall be sold or conveyed to the Neosho memorial regional medical center, at the price agreed upon between the parties.

(c) No sale or conveyance of the real property described in subsection (a) shall be authorized or approved by the secretary for children and families without having first advised and consulted with the joint committee on state building construction.

(d) Prior to the sale or conveyance of the real property described in subsection (a), the state finance council shall approve the sale, which is hereby characterized as a matter of legislative delegation and subject to

the guidelines prescribed in K.S.A. 75-3711(c), and amendments thereto. The matter may be submitted to the state finance council for approval at any time, including periods of time during which the legislature is in session.

(e) When the sale is made, the proceeds thereof shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the appropriate account of the state general fund or special revenue fund of the Kansas department for children and families as determined by the secretary for children and families. The secretary for children and families shall transmit a copy of such determination to the director of legislative research.

(f) The conveyance of real property authorized by this section shall not be subject to the provisions of K.S.A. 75-3043a or K.S.A. 2015 Supp. 75-6609, and amendments thereto.

(g) In the event that the secretary for children and families determines that the legal description of the parcel described by this section is incorrect, the secretary of administration may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the approval of the attorney general.

(h) On the effective date of this act, the provisions of section 175(b) of chapter 104 of the 2015 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

Sec. 105. K.S.A. 2015 Supp. 68-2320 is hereby amended to read as follows: 68-2320. (a) On and after July 1, 1991, the secretary of transportation is hereby authorized and empowered to issue bonds of the state of Kansas, payable solely from revenues accruing to the state highway fund and transferred to the highway bond debt service fund and pledged to their payment, for the purpose of providing funds to pay costs relating to construction, reconstruction, maintenance or improvement of highways in this state and to pay all expenses incidental thereto and to the bonds. The secretary is hereby authorized to issue bonds the total principal amount of which shall not exceed \$890,000,000.

(b) In addition to the provisions of subsection (a), on and after July 1, 1999, the secretary of transportation is hereby authorized and empowered to issue bonds of the state of Kansas, payable solely from revenues accruing to the state highway fund and transferred to the highway bond debt service fund and pledged to their payment, for the purpose of providing funds to pay costs relating to construction, reconstruction, maintenance or improvement of highways in this state and to pay all expenses incidental thereto and to the bonds. The secretary is hereby authorized to issue bonds the total principal amount of which shall not exceed \$1,272,000,000.

(c) (1) In addition to the provisions of subsections (a) and (b), on and after July 1, 2010, the secretary of transportation is hereby authorized and empowered to issue additional bonds of the state of Kansas, payable solely from revenues accruing to the state highway fund and transferred to the highway bond debt service fund and pledged to their payment, for the purpose of providing funds to pay costs relating to construction, reconstruction, maintenance or improvement of highways in this state and to pay all expenses incidental thereto and to the bonds. *On and after the effective date of this act*, except as provided further, no bonds shall be issued by the secretary pursuant to this subsection unless the secretary certifies that, as of the date of issuance of any such series of additional bonds, the maximum annual debt service on all outstanding bonds issued pursuant to this section and K.S.A. 68-2328, and amendments thereto, including the bonds to be issued on such date, will not exceed 18% of projected state highway fund revenues for the current or any future fiscal year. ~~During the fiscal year ending June 30, 2016, and the fiscal year ending June 30, 2017, the provisions of this subsection which prescribe a limitation on the amount of the maximum annual debt service on all outstanding bonds issued pursuant to this section and K.S.A. 68-2328, and amendments thereto, for the purpose of issuing any such series of additional bonds authorized by the secretary are hereby suspended. During the fiscal year ending June 30, 2017, the limitation on the amount of the maximum annual debt service on all outstanding bonds issued pursuant to this section and K.S.A. 68-2328, and amendments thereto, for the purpose of issuing any such series of additional bonds authorized by the secretary is 19% of projected state highway fund revenues for the current or any future fiscal year. The provisions of this section relating to limitations of bonded indebtedness shall not in any way impair the rights and remedies of the holders of any bonds issued prior to the effective date of this act.~~

(2) As used in this subsection:

(A) “Maximum annual debt service” means the maximum amount of debt service requirements on all outstanding bonds for the current or any future fiscal year;

(B) “debt service requirements” means, for each fiscal year, the aggregate principal and interest payments required to be made during such fiscal year on all outstanding bonds, including the additional bonds to be issued, less any interest subsidy payments expected to be received from the federal government, less any principal and interest payments irrevocably provided for from a dedicated escrow of United States government securities;

(C) “projected state highway fund revenues” means all revenues projected by the secretary of transportation to accrue to the state highway fund for the current or any future fiscal year; and

(D) “fiscal year” means the fiscal year of the state.

(3) Debt service requirements for variable rate bonds outstanding or proposed to be issued for the current or any future fiscal year for which the actual interest rate cannot be determined on the date of calculation shall be deemed to bear interest at an assumed rate equal to the average of the SIFMA swap index, or any successor variable rate index, for the immediately preceding five calendar years plus 1% and an amount determined by the secretary that represents the then current reasonable annual ancillary costs associated with variable rate debt, including credit enhancement, liquidity and remarketing costs; except that, debt service requirements for variable rate bonds that are hedged pursuant to an interest rate exchange or similar agreement that results in synthetic fixed rate debt shall be deemed to bear interest at the synthetic fixed rate plus .5% and an amount determined by the secretary that represents the then current reasonable annual ancillary costs associated with variable rate debt, including credit enhancement, liquidity and remarketing costs.

(4) Projected state highway fund revenues for the current or any future fiscal year for which the actual revenues cannot be determined on the date of calculation shall be deemed to be the actual revenues for the most recently completed fiscal year, adjusted in each subsequent fiscal year by a percentage equal to the historical average annual increase or decrease in revenues for the five fiscal year period prior to the current fiscal year, and further adjusted to take into account any increases or decreases in the statutory rates of any taxes or other charges or transfers that comprise a portion of the revenues.

(d) In accordance with procurement statutes, the secretary may contract with financial advisors, attorneys and such other professional services as the secretary deems necessary to carry out the provisions of this act, and to do all things necessary or convenient to carry out the powers expressly granted in this act.

Sec. 106. K.S.A. 2015 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, the employer rate of contribution shall be 10.91%, except that if bonds issued pursuant to K.S.A. 2015 Supp. 74-49,131a, 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 as provided by K.S.A. 74-4920(17), and amendments thereto; (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 K.S.A. 2015 Supp. 74-49,131a, 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 as provided by K.S.A. 74-4920(18), and amendments thereto; 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, without regard to the employer rate of contribution in subsection (2) to be calculated as if no certification is made reducing or increasing the rate of employer contribution as provided in K.S.A. 74-4920(17) or (18), and amendments thereto. 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.

(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. 107. K.S.A. 2015 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 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 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 K.S.A. 2015 Supp. 74-49,131a, 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 as provided by subsection (17); (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 K.S.A. 2015 Supp. 74-49,131a, 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 as provided by subsection (18); 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, without regard to the rate of employer contribution to be calculated as if no certification is made reducing or increasing the rate of employer contribution as provided in subsection (17) or (18). 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. 2015 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. 2015 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. 2015 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. 2015 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 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. On and after the effective date of this act, during the fiscal year ending June 30, 2016, if the director of the budget lapses or transfers any amount from the state general fund or from any special revenue fund or funds that would be attributable to employer contributions for any state agency pursuant to section 98(a)(1) of this act, the director of the budget shall certify such amount or amounts and transmit such certification to the board. Upon receipt of such certification, the board shall certify the employer rate of contribution for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, for the fiscal year ending June 30, 2016, at 10.91% minus a percentage of compensation that corresponds to the dollar amount certified by the director of the budget pursuant to this subsection.

(18) On July 1, 2016, if the director of the budget lapses or transferred any amount from the state general fund or from any special revenue fund or funds that would be attributable to employer contributions for any state agency during the fiscal year ending June 30, 2016, pursuant to section 98(a)(1) of this act, the board shall certify the employer rate of contribution for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, for the first quarter of the fiscal year ending June 30, 2017, at 10.81% plus a percentage of compensation that corresponds to four times the dollar amount, plus 8%, certified by the director of the budget pursuant to subsection (17). For the final three quarters of the fiscal year ending June 30, 2017, the board shall certify the employer rate of contribution for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, at 10.81%.

(19) An amount of money corresponding to the employer rate of contribution for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, for the first quarter of the fiscal year ending June 30, 2017, established in subsection (18) shall be paid by the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, to the Kansas public employees retirement fund on or before September 30, 2016.

Sec. 108. K.S.A. 2015 Supp. 74-50,107 is hereby amended to read as follows: 74-50,107. (a) Commencing July 1, 2015, and on the first day of each month thereafter during fiscal year 2016, fiscal year 2017, and fiscal year 2018, 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. 2015 Supp. 74-50,224, and amendments thereto. During fiscal years 2016; ~~and 2017~~ ~~and~~, *no moneys shall be credited to the job creation fund pursuant to the subsection for such fiscal year. During fiscal year 2018* the aggregate amount that is credited to the job creation program fund pursuant to this subsection shall not exceed \$3,500,000 for such fiscal year.

(b) Commencing July 1, 2018, 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. 2015 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. 2015 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. 109. K.S.A. 2015 Supp. 74-99b34 is hereby amended to read as follows: 74-99b34.(a) The bioscience development and investment fund is hereby created. The bioscience development and investment fund shall not be a part of the state treasury and the funds in the bioscience development and investment fund shall belong exclusively to the authority.

(b) Distributions from the bioscience development and investment fund shall be for the exclusive benefit of the authority, under the control of the board and used to fulfill the purpose, powers and duties of the authority pursuant to the provisions of K.S.A. 2015 Supp. 74-99b01 et seq., and amendments thereto.

(c) The secretary of revenue and the authority shall establish the base year taxation for all bioscience companies and state universities. The secretary of revenue, the authority and the board of regents shall establish the number of bioscience employees associated with state universities and report annually and determine the increase from the taxation base annually. The secretary of revenue and the authority may consider any verifiable evidence, including, but not limited to, the NAICS code assigned or recorded by the department of labor for companies with employees in



Kansas, when determining which companies should be classified as bioscience companies.

(d) (1) Except as provided in subsection (d)(2), (d)(3), (h), (i); ~~or (j) or (k)~~, for a period of 15 years from the effective date of this act, the state treasurer shall pay annually 95% of withholding above the base, as certified by the secretary of revenue, upon Kansas wages paid by bioscience employees to the bioscience development and investment fund. Such payments shall be reconciled annually. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the bioscience development and investment fund interest earnings based on:

(A) The average daily balance of moneys in the bioscience development and investment fund for the preceding month; and

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

(2) (A) For fiscal year 2016, fiscal year 2017 and fiscal year 2018, the first \$1,000,000 that the secretary of revenue certifies to the state treasurer of the annual 95% of withholding above the base, upon Kansas wages paid by bioscience employees, shall be transferred by the director of accounts and reports from the state general fund to the following: The center of innovation for biomaterials in orthopaedic research — Wichita state university fund.

(B) There is hereby established in the state treasury the center of innovation for biomaterials in orthopaedic research — Wichita state university fund which shall be administered by Wichita state university. All moneys credited to the fund shall be used for research and development. All expenditures from the center of innovation for biomaterials in orthopaedic research — Wichita state university fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the president of Wichita state university or by the person or persons designated by the president of Wichita state university.

(3) (A) For fiscal year 2016, fiscal year 2017 and fiscal year 2018, the next \$5,000,000 that the secretary of revenue certifies to the state treasurer of the annual 95% of withholding above the base, upon Kansas wages paid by bioscience employees above the first \$1,000,000 certified pursuant to subsection (d)(2)(A), shall be transferred by the director of accounts and reports from the state general fund to the following: The national bio agro-defense facility fund at Kansas state university.

(B) There is hereby established in the state treasury the national bio agro-defense facility fund which shall be administered by Kansas state university in accordance with the strategic plan adopted by the governor's national bio agro-defense facility steering committee. All moneys credited to the fund shall be used in accordance with the governor's national bio agro-defense facility steering committee's plan with the approval of the

president of Kansas state university. All expenditures from the national bio agro-defense facility fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the steering committee and the president of Kansas state university or by the person or persons designated by the president of Kansas state university.

(e) The cumulative amounts of funds paid by the state treasurer to the bioscience development and investment fund shall not exceed \$581,800,000.

(f) The division of post audit is hereby authorized to conduct a post audit in accordance with the provisions of the legislative post audit act, K.S.A. 46-1106 et seq., and amendments thereto.

(g) At the direction of the authority, the fund may be held in the custody of and invested by the state treasurer, provided that the bioscience development and investment fund shall at all times be accounted for in a separate report from all other funds of the authority and the state.

~~(h) During the fiscal year ending June 30, 2015, the aggregate amount that is directed to be transferred from the state general fund to the bioscience development and investment fund pursuant to subsection (d)(1) plus interest earnings pursuant to subsection (d)(1) shall not exceed \$13,000,000 for such fiscal year.~~

~~(i)~~—During the fiscal year ending June 30, 2016, the aggregate amount that is directed to be transferred from the state general fund to the bioscience development and investment fund pursuant to subsection (d)(1) plus interest earnings pursuant to subsection (d)(1) shall not exceed ~~\$13,000,000~~ \$8,000,000 for such fiscal year.

~~(j)~~—(i) During the fiscal year ending June 30, 2017, the aggregate amount that is directed to be transferred from the state general fund to the bioscience development and investment fund pursuant to subsection (d)(1) plus interest earnings pursuant to subsection (d)(1) shall not exceed ~~\$13,000,000~~ \$6,000,000 for such fiscal year.

~~(k)~~—(j) During the fiscal year ending June 30, 2018, the aggregate amount that is directed to be transferred from the state general fund to the bioscience development and investment fund pursuant to subsection (d)(1) plus interest earnings pursuant to subsection (d)(1) shall not exceed ~~\$13,000,000~~ \$6,000,000 for such fiscal year.

Sec. 110. K.S.A. 2015 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.

(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 subsection (b)(1);

(B) determine the median AVPP of all school districts;

(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;

(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. 2015 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 25%;

(E) determine the amount of payments that a school district is obligated to make from its bond and interest fund attributable to general obligation bonds approved for issuance at an election held prior to July 1, 2015; and

(F) multiply the amount determined under subsection (b)(1)(E) by the applicable state aid percentage factor.

(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. 2015 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 general obligation bonds approved for issuance at an election held on or after July 1, 2015, but prior to July 1, 2017; 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 payment 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, *and June 30, 2017*, 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.

Sec. 111. K.S.A. 75-3722 is hereby amended to read as follows: 75-3722. (a) An allotment system will be applicable to the expenditure of the resources of any state agency, under rules and regulations established as provided in K.S.A. 75-3706, *and amendments thereto*, only if in the opinion of the secretary of administration on the advice of the director of the budget, the use of an allotment plan is necessary or beneficial to the state. In making this determination the secretary of administration shall take into consideration all pertinent factors including:

- (1) Available resources;
- (2) current spending rates;
- (3) work loads;
- (4) new activities, especially any proposed activities not covered in the agency's request to the governor and the legislature for appropriations;

- (5) the minimum current needs of each agency;
- (6) requests for deficiency appropriations in prior fiscal years;
- (7) unexpended and unencumbered balances; and
- (8) revenue collection rates and prospects.

(b) Whenever for any fiscal year it appears that the resources of the general fund or any special revenue fund are likely to be insufficient to cover the appropriations made against such general fund or special revenue fund, the secretary of administration, on the advice of the director of the budget, shall, in such manner as he or she may determine, inaugurate the allotment system so as to assure that expenditures for any particular fiscal year will not exceed the available resources of the general fund or any special revenue fund for that fiscal year.

(c) (1) The allotment system shall not apply to the legislature or to the courts or their officers and employees. *During the fiscal year ending June 30, 2017, the allotment system provided by this section shall not apply to any item of appropriation for employer contributions for the state of Kansas and participating employers who are eligible employers as specified in K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto.*

(2) Agencies affected by decisions of the secretary of administration under this section shall be notified in writing at least ~~thirty (30)~~ 30 days before such decisions may become effective and any affected agency may, by written request addressed to the governor within ~~ten (10)~~ 10 days after such notice, ask for a review of the decision by the finance council. The

finance council shall hear appeals and render a decision within ~~twenty~~ ~~(20)~~ 20 days after the governor receives requests for such hearings.

Sec. 112. K.S.A. 2015 Supp. 79-34,161 is hereby amended to read as follows: 79-34,161. On July 1, 2001, and quarterly thereafter, the state treasurer shall credit amounts as provided in this subsection from the amounts remaining after the state treasurer credits an amount to the motor vehicle fuel tax refund fund as provided in K.S.A. 79-3425, and amendments thereto, to the Kansas qualified agricultural ethyl alcohol producer incentive fund. The current production account and the new production account are hereby created in the Kansas qualified agricultural ethyl alcohol producer incentive fund. ~~During fiscal years 2002, 2003 and 2004, the state treasurer (a) shall credit \$500,000 each calendar quarter to the current production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund, and (b) shall credit \$375,000 each calendar quarter to the new production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund.~~ During fiscal years 2005 through 2018, the state treasurer shall credit \$875,000 each calendar quarter to the new production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund. On July 1 of each fiscal year through fiscal year 2018, or as soon after each such date as information is available, the secretary of revenue shall certify to the director of accounts and reports the amount of any unencumbered balance as of June 30 of the preceding fiscal year in the current production account of such fund and the director of accounts and reports shall transfer the amount certified from the current producer account to the new production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund. After all amounts have been paid pursuant to certifications for the fiscal year ending on June 30, any unencumbered balance as of June 30 of any fiscal year in the new production account of such fund shall be transferred by the director of accounts and reports to the ~~motor vehicle fuel tax refund~~ *state general* fund. If the aggregate of outstanding claims made on the current production account of such fund is greater than the amount credited to such account, then such claims shall be paid on a pro rata basis. Each claim may be paid regardless of the fiscal year during which the claim was submitted. *Notwithstanding the provisions of K.S.A. 79-34,163, and amendments thereto, during fiscal years 2016, 2017 and 2018, any producer who purchases an existing agricultural ethyl alcohol facility shall not be qualified to receive any production incentive from the new production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund.*

Sec. 113. *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. 114. *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, the 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. 115. K.S.A. 75-3722 and K.S.A. 2015 Supp. 68-2320, 74-4914d, 74-4920, 74-50,107, 74-99b34, 75-2319 and 79-34,161 are hereby repealed.

Sec. 116. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved March 4, 2016.

Published in the *Kansas Register* March 31, 2016.

† Section 35g was line-item vetoed.

† Section 36f was line-item vetoed.

† Section 48o was line-item vetoed.

(See Messages from the Governor)

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CHAPTER 13

Substitute for SENATE BILL No. 103\*

AN ACT concerning pharmacy benefits managers.

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

Section 1. As used in this act:

(a) “List” means the list of drugs for which maximum allowable costs have been established;

(b) “maximum allowable cost” or “MAC” means the maximum amount that a pharmacy benefits manager will reimburse a pharmacy for the cost of a generic drug;

(c) “network pharmacy” means a pharmacy that contracts with a pharmacy benefits manager; and

(d) “pharmacy benefits manager” or “PBM” shall have the same meaning as K.S.A. 2015 Supp. 40-3822(e), and amendments thereto.

Sec. 2. A pharmacy benefits manager:

(a) Shall not place a drug on a MAC list unless there are at least two therapeutically equivalent multi-source generic drugs, or at least one generic drug available from at least one manufacturer, generally available

for purchase by network pharmacies from national or regional wholesalers and the drug is not obsolete.

(b) Shall provide to each network pharmacy at the beginning of the term of a contract and upon request thereafter, the sources utilized to determine the maximum allowable cost price.

(c) Shall provide a process for each network pharmacy provider to readily access the maximum allowable price specific to that provider.

(d) Shall review and update each applicable maximum allowable cost list every seven business days and apply the updates to reimbursements no later than one business day.

(e) Shall ensure that dispensing fees are not included in the calculation of maximum allowable cost.

(f) Shall establish a process by which a network pharmacy may appeal reimbursement for a drug subject to maximum allowable cost as follows:

(1) The network pharmacy must file an appeal no later than 10 business days after the fill date.

(2) The PBM shall provide a response to the appealing network pharmacy no later than 10 business days after receiving an appeal request containing information sufficient for the PBM to process the appeal as specified by the contract.

(3) If the appeal is upheld, the PBM:

(A) Shall make the adjustment in the drug price effective no later than one business day after the appeal is resolved;

(B) shall make the adjustment applicable to all similarly situated network pharmacy providers, as determined by the plan sponsor or pharmacy benefits manager, as appropriate; and

(C) permit the appealing pharmacy to reverse and rebill the appealed claim.

(4) If the appeal is denied, the PBM shall provide the appealing pharmacy the national drug code number from a national or regional wholesaler operating in Kansas where the drug is generally available for purchase at a price equal to or less than the maximum allowable cost, and when applicable, may be substituted lawfully.

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

Approved March 23, 2016.

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## CHAPTER 14

## SENATE BILL No. 358

AN ACT concerning the nurse educator service scholarship; relating to the definition of school of nursing; amending K.S.A. 2015 Supp. 74-32,220 and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 74-32,220 is hereby amended to read as follows: 74-32,220. As used in the nurse educator service scholarship program act:

(a) “Accredited independent institution” means a not-for-profit institution of higher education which: (1) Has its main campus or principal place of operation in Kansas; (2) is operated independently and not controlled or administered by the state or any agency or subdivision thereof; (3) maintains open enrollment; and (4) holds accreditation to grant a master of science or doctoral degree in nurse education or nursing administration from a national accrediting entity recognized by the United States department of education.

(b) “Executive officer” means the chief executive officer of the state board of regents appointed under K.S.A. 74-3203a, and amendments thereto.

(c) “Open enrollment” has the meaning ascribed thereto in K.S.A. 74-32,120, and amendments thereto.

~~(d)~~ (d) “School of nursing” means: (1) A school within the state of Kansas which is approved by the state board of nursing to grant a master of science or doctoral degree in nursing; or (2) an accredited independent institution.

~~(e)~~ (e) “Qualified applicant” means a person who: (1) Is a resident of the state of Kansas; (2) (A) is a registered nurse who holds a baccalaureate degree in nursing and has been accepted for admission to or is enrolled in a course of instruction leading to a master of science in nursing; or (B) is a registered nurse who holds a master of science degree in nursing and has been accepted for admission to or is enrolled in a course of instruction leading to a doctorate degree in nursing; and (3) has qualified for the award of a scholarship under the program on the basis of having demonstrated scholastic ability and remains qualified on the basis of remaining in good standing and making satisfactory progress toward completion of the requirements of the course of instruction in which enrolled.

~~(f)~~ (f) “Program” means the nurse educator service scholarship program established pursuant to this act.

~~(g)~~ (g) “Review Committee” or “committee” means the nurse educator service scholarship application review committee established at each school of nursing as required by K.S.A. 2015 Supp. 74-32,221, and amendments thereto.

Sec. 2. K.S.A. 2015 Supp. 74-32,220 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 23, 2016.

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CHAPTER 15

SENATE BILL No. 369

AN ACT concerning the Kansas mortgage business act; relating to the state bank commissioner; amending K.S.A. 9-2206 and K.S.A. 2015 Supp. 9-2201, 9-2202, 9-2203, 9-2205, 9-2208, 9-2209, 9-2211, 9-2212, 9-2216 and 9-2216a and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 9-2201 is hereby amended to read as follows: 9-2201. As used in this act:

(a) *“Application” means the submission of a consumer’s financial information, including the consumer’s name, income and social security number to obtain a credit report, the property address, an estimate of the value of the property and the mortgage loan amount sought, for the purpose of obtaining an extension of credit.*

~~(a)~~(b) *“Bona fide office” means an applicant’s or licensee’s principal place of business with an office that:*

- (1) Is located in this state;
- (2) is not located in a personal residence;
- (3) has regular hours of operation;
- (4) is accessible to the public;
- (5) is leased or owned by the licensee and serves as an office for the transaction of the licensee’s mortgage business;
- (6) is separate from any office of another registrant; and
- (7) is accessible to all of the licensee’s books, records and documents.

~~(b)~~(c) *“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)~~(d) *“Commissioner” means the state bank commissioner or designee, who shall be the deputy commissioner of the consumer and mortgage lending division of the office of the state bank commissioner.*

(e) *“Individual” means a human being.*

~~(d)~~(f) *“License” means a license issued by the commissioner to engage in mortgage business as a mortgage company.*

~~(e)~~(g) *“Licensee” means a person who is licensed by the commissioner as a mortgage company.*

~~(f)~~(h) *“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)~~(i) “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)~~(j) “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 holding the rights to* or offering to solicit, place, negotiate, acquire, sell or arrange for others, mortgage loans in the primary market.

~~(j)~~(k) “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)~~(l) “Mortgage loan” means a loan or agreement to extend credit made to ~~a natural person~~ *one or more individuals* which is secured by a first or ~~second~~ *subordinate* 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 15 U.S.C. § 1602(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.

(m) “Mortgage servicer” means *any person engaged in mortgage servicing*.

(n) “Mortgage servicing” means *collecting payment, remitting payment for another or the right to collect or remit payment of any of the following: Principal; interest; tax; insurance; or other payment under a mortgage loan*.

(o) “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 mortgage loan originators*.

(p) “Not-for-profit” means *a business entity that is granted tax exempt status by the internal revenue service*.

~~(h)~~(q) “Person” means any individual, sole proprietorship, corporation, partnership, trust, association, joint venture, pool syndicate, unincorporated organization or other form of entity, however organized.

~~(m)~~(r) “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~~ *mortgage business is conducted including activities conducted by any person who assumes or accepts any mortgage business responsibilities of the original parties to the transaction*.

~~(n)~~(s) “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)~~(t) “Promotional items” means pens, pencils, hats and other such novelty items.

~~(p)~~(u) “Registrant” means any individual who holds a valid registration to conduct mortgage business in this state as a loan originator.

~~(q)~~(v) “Unique identifier” means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry.

Sec. 2. K.S.A. 2015 Supp. 9-2202 is hereby amended to read as follows: 9-2202. The following are exempt from the licensing requirements of this act:

(a) Any bank, savings bank, trust company, savings and loan association, building and loan association, industrial loan company or credit union organized, chartered or authorized under the laws of the United States or of any state which is authorized to make loans and to receive deposits;

(b) any entity directly or indirectly regulated by an agency of the United States or of any state which is a subsidiary of any entity listed in subsection (a) if 25% or more of such entity's common stock is directly owned by any entity listed in subsection (a);

~~(c) any person who is licensed as a supervised lender pursuant to K.S.A. 16a-2-301 et seq., and amendments thereto;~~

~~(d)~~ the United States of America, the state of Kansas, any other state, or any agency or instrumentality of any governmental entity; ~~and~~

~~(e)~~~~(d)~~ any individual who with their own funds for their own investment makes a purchase money mortgage or finances the sale of their own property, except that any individual who enters into more than five such investments or sales in any twelve-month period shall be subject to all provisions of this act; *and*

*(e) not-for-profit entities that provide mortgage loans in conjunction with a mission of building or rehabilitating affordable homes to low-income consumers.*

Sec. 3. K.S.A. 2015 Supp. 9-2203 is hereby amended to read as follows: 9-2203. (a) Mortgage business shall only be conducted in this state at or from a mortgage company licensed by the commissioner as required by this act. A licensee shall be responsible for all mortgage business conducted on their behalf by loan originators or other employees.

(b) Mortgage business involving loan origination shall only be conducted in this state by an individual who has first been registered with the commissioner as a loan originator as required by this act and maintains a valid unique identifier issued by the nationwide mortgage licensing system and registry, if operational at the time of registration.

(c) Loan origination shall only be conducted at or from a mortgage company and a registrant shall only engage in mortgage business on behalf of one mortgage company.

*(d) Nothing under this act shall require a licensee to obtain any other license for the sole purpose of conducting non-depository mortgage business.*

~~(d)~~~~(e)~~ Any person who willfully or knowingly violates any of the provisions of this act, any rule and regulation adopted or order issued under this act commits a severity level 7 nonperson felony. A second or subsequent conviction of this act, regardless of its location on the sentencing grid block, shall have a presumptive sentence of imprisonment.

~~(e)~~(f) No prosecution for any crime under this act may be commenced more than five years after the alleged violation. A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution, except that no prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

~~(f)~~(g) Nothing in this act limits the power of the state to punish any person for any conduct which constitutes a crime by statute.

Sec. 4. K.S.A. 2015 Supp. 9-2205 is hereby amended to read as follows: 9-2205. (a) A license or registration shall become effective as of the date specified ~~on the face of the certificate~~ *in writing by the commissioner*.

(b) A license shall be renewed annually by filing with the commissioner, at least 30 days prior to the expiration of the license, a renewal application, containing information the commissioner requires to determine the existence of material changes from the information contained in the applicant's original license application or prior renewal applications.

(c) A registration shall be renewed annually by filing with the commissioner, at least 30 days prior to the expiration of the registration, a renewal application, containing information the commissioner requires to determine the existence of material changes from the information contained in the applicant's original registration application or prior renewal applications, including the completion of any continuing education requirements.

(d) Each renewal application shall be accompanied by a nonrefundable fee which shall be established by rules and regulations pursuant to K.S.A. 9-2209, and amendments thereto.

(e) Any renewal application received by the commissioner after the expiration date of the current license or registration shall be treated as an original application and shall be subject to all reporting and fee requirements contained in K.S.A. 9-2204, and amendments thereto.

Sec. 5. K.S.A. 9-2206 is hereby amended to read as follows: 9-2206. If the commissioner fails to issue a license or registration within 60 days or grant a renewal within 30 days after a ~~filed~~ *an* application is deemed complete by the commissioner, the applicant may make written request for hearing. The commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.

Sec. 6. K.S.A. 2015 Supp. 9-2208 is hereby amended to read as follows: 9-2208. (a) Each licensee shall ~~prominently display the license of any principal place of business and any branch office in a way that reasonably assures recognition by customers and members of the general public who enter the licensee's place of business~~ *make available the evi-*

*dence of licensure of each licensed location in a way that reasonably assures recognition by consumers and members of the general public.*

(b) Prior to entering into any contract for the provision of services or prior to the licensee receiving any compensation or promise of compensation for a mortgage loan the licensee shall acquire from the ~~customer~~ *consumer* a signed acknowledgment containing such information as the commissioner may prescribe by rule and regulation. The signed acknowledgment shall be retained by the licensee and a copy shall be provided to the ~~customer~~ *consumer*.

(c) All solicitations and published advertisements concerning mortgage business directed at Kansas residents, including those on the internet or by other electronic means, shall contain ~~the words "Kansas licensed mortgage company," and must also contain~~ the name and license number ~~or unique identifier~~ of the licensee, ~~which shall be the same as the name and number on record with the commissioner.~~ Each licensee shall maintain a record of all solicitations or advertisements for a period of ~~25~~ 36 months. For the purpose of this subsection, "advertising" does not include business cards or promotional items.

(d) No solicitation or advertisement shall contain false, misleading or deceptive information, or indicate or imply that the interest rates or charges stated are "recommended," "approved," "set" or "established" by the state of Kansas.

(e) No licensee or registrant shall conduct mortgage business in this state using any name other than the name or names stated on their license or registration.

Sec. 7. K.S.A. 2015 Supp. 9-2209 is hereby amended to read as follows: 9-2209. (a) The commissioner may exercise the following powers:

(1) Adopt rules and regulations as necessary to carry out the intent and purpose of this act and to implement the requirements of ~~the secure and fair enforcement for mortgage licensing act of 2008, P.L. 110-289~~ *applicable federal law*;

(2) make investigations and examinations of the licensee's or registrant's operations, books and records as the commissioner deems necessary for the protection of the public and control access to any documents and records of the licensee or registrant under examination or investigation;

(3) charge reasonable costs of investigation, examination and administration of this act, to be paid by the applicant, licensee or registrant. The commissioner shall establish such fees in such amounts as the commissioner may determine to be sufficient to meet the budget requirements of the commissioner for each fiscal year. Charges for administration of this act shall be based on the licensee's loan volume;

(4) order any licensee or registrant to cease any activity or practice

which the commissioner deems to be deceptive, dishonest, violative of state or federal law or unduly harmful to the interests of the public;

(5) exchange any information regarding the administration of this act with any agency of the United States or any state which regulates the licensee or registrant or administers statutes, rules and regulations or programs related to mortgage loans, ~~or which administers statutes, rules and regulations or other programs related to mortgage loans~~ *business* and to enter into information sharing arrangements with other governmental agencies or associations representing governmental agencies which are deemed necessary or beneficial to the administration of this act;

(6) disclose to any person or entity that an applicant's, licensee's or registrant's application, license or registration has been denied, suspended, revoked or refused renewal;

(7) require or permit any person to file a written statement, under oath or otherwise as the commissioner may direct, setting forth all the facts and circumstances concerning any apparent violation of this act, or any rule and regulation promulgated thereunder or any order issued pursuant to this act;

(8) receive, as a condition in settlement of any investigation or examination, a payment designated for consumer education to be expended for such purpose as directed by the commissioner;

(9) require that any applicant, registrant, licensee or other person successfully passes a standardized examination designed to establish such person's knowledge of mortgage business transactions and all applicable state and federal law. Such examinations shall be created and administered by the commissioner, or the commissioner's designee, and may be made a condition of application approval or application renewal; ~~and~~

(10) require that any applicant, licensee, registrant or other person complete a minimum number of prelicensing education hours and complete continuing education hours on an annual basis. Prelicensing and continuing education courses shall be approved by the commissioner, or the commissioner's designee, and may be made a condition of application approval and renewal;

(11) require fingerprinting of any applicant, registrant, licensee, members thereof if a copartnership or association, or officers and directors thereof if a corporation, or any agent acting on their behalf, or other person as deemed appropriate by the commissioner. The commissioner, or the commissioner's designee, may submit such fingerprints to the Kansas bureau of investigation, federal bureau of investigation or other law enforcement agency for the purposes of verifying the identity of such persons and obtaining records of their criminal arrests and convictions. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have to maintain with the individual states, the commissioner may use the nationwide mortgage licensing system and registry as a channeling agent for request-



ing information from and distributing information to the department of justice or any governmental agency;

(12) refer such evidence as may be available concerning any violation of this act or of any rule and regulation 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 referral, institute the appropriate criminal proceedings under this act. Upon receipt of such referral, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the commissioner prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the commissioner, 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;

(13) issue and apply to enforce subpoenas in this state at the request of a comparable official of another state if the activities constituting an alleged violation for which the information is sought would be a violation of the Kansas mortgage business act if the activities had occurred in this state;

(14) use the nationwide mortgage licensing system and registry as a channeling agent for requesting and distributing any information regarding loan originator or mortgage company licensing to and from any source so directed by the commissioner;

(15) establish relationships or contracts with the nationwide mortgage licensing system and registry or other entities to collect and maintain records and process transaction fees or other fees related to applicants, licensees, registrants or other persons subject to this act and to take such other actions as may be reasonably necessary to participate in the nationwide mortgage licensing system and registry. The commissioner shall regularly report violations of law, as well as enforcement actions and other relevant information to the nationwide mortgage licensing system and registry; ~~and~~

(16) require any licensee or registrant to file reports with the nationwide mortgage licensing system and registry in the form prescribed by the commissioner or the commissioner's designee;

(17) *receive and act on complaints, take action designed to obtain voluntary compliance with the provisions of the Kansas mortgage business act or commence proceedings on the commissioner's own initiative;*

(18) *provide guidance to persons and groups on their rights and duties under the Kansas mortgage business act;*

(19) *enter into any informal agreement with any mortgage company*

*for a plan of action to address violations of law. The adoption of an informal agreement authorized by this paragraph 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 paragraph shall not be considered an order or other agency action, and shall be considered confidential examination material pursuant to K.S.A. 9-2217, and amendments thereto. All such examination material shall also 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, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. The provisions of this paragraph shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2021; and*

(20) *issue, amend and revoke written administrative guidance documents in accordance with the applicable provisions of the Kansas administrative procedure act.*

(b) For the purpose of any examination, investigation or proceeding under this act, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel such witnesses' attendance, adduce evidence and require the production of any matter which is relevant to the examination or investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of relevant information or items.

(c) In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the commissioner, may issue to that person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, there, to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as a contempt of court.

(d) No person is excused from attending and testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence~~(, documentary or otherwise)~~, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. No individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence~~(, doc-~~

umentary or otherwise}, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(e) *Except for refund of an excess charge, no liability is imposed under the Kansas mortgage business act for an act done or omitted in conformity with a rule and regulation or written administrative interpretation of the commissioner in effect at the time of the act or omission, notwithstanding that after the act or omission, the rule and regulation or written administrative interpretation may be determined by judicial or other authority to be invalid for any reason.*

Sec. 8. K.S.A. 2015 Supp. 9-2211 is hereby amended to read as follows: 9-2211. (a) Each applicant or licensee who maintains a bona fide office shall file with the commissioner a surety bond in the amount of not less than \$50,000, in a form acceptable to the commissioner, issued by an insurance company authorized to conduct business in this state, securing the applicant's or licensee's faithful performance of all duties and obligations of a licensee meeting the following requirements:

(1) The bond shall be payable to the office of the state bank commissioner and shall be in an amount established by the commissioner by rules and regulations adopted pursuant to K.S.A. 9-2209, and amendments thereto;

(2) the terms of the bond shall provide that it may not be terminated without 30 days prior written notice to the commissioner, provided that such termination shall not affect the surety's liability for violations of the Kansas mortgage business act occurring prior to the effective date of cancellation and principal and surety shall be and remain liable for a period of two years from the date of any action or inaction of principal that gives rise to a claim under the bond; and

(3) the bond shall be available for the recovery of expenses, fines and fees levied by the commissioner under this act, and for losses or damages which are determined by the commissioner to have been incurred by any borrower or consumer as a result of the applicant's or licensee's failure to comply with the requirements of this act.

(b) Each applicant or licensee who does not maintain a bona fide office shall comply with both of the following:

(1) File with the commissioner a surety bond in the amount of not less than \$100,000, in a form acceptable to the commissioner, issued by an insurance company authorized to conduct business in this state, securing the applicant's or licensee's faithful performance of all duties and obligations of a licensee meeting the following requirements:

~~(A) The bond shall be payable to the office of the state bank commissioner and shall be in an amount established by the commissioner by rules and regulations adopted pursuant to K.S.A. 9-2209, and amendments thereto;~~

~~(B) the terms of the bond shall provide that it may not be terminated without 30 days prior written notice to the commissioner, and~~

~~(C) the bond shall be available for the recovery of expenses, fines and fees levied by the commissioner under this act, and for losses or damages which are determined by the commissioner to have been incurred by any borrower or consumer as a result of the applicant's or licensee's failure to comply with the requirements of this act, set forth in paragraphs (a)(1), (a)(2) and (a)(3) of this act; and~~

(2) submit evidence that establishes, to the commissioner's satisfaction, that the applicant or licensee shall at all times maintain a minimum net worth of \$50,000. Evidence of net worth shall include the submission of a balance sheet *of the applicant or a consolidated financial statement of the entity that owns or controls the applicant* accompanied by a written statement by an independent certified public accountant attesting that the balance sheet *or the consolidated financial statement* has been reviewed in accordance with generally accepted accounting principles.

Sec. 9. K.S.A. 2015 Supp. 9-2212 is hereby amended to read as follows: 9-2212. No person required to be licensed or registered under this act shall directly or indirectly:

(a) Pay compensation to, contract with or employ in any manner, any person engaged in mortgage business who is not properly licensed or registered, unless such person meets the requirements of K.S.A. 9-2202, and amendments thereto;

(b) without the prior written approval of the commissioner employ any person who has:

(1) Had a license or registration denied, revoked, suspended or refused renewal; or

(2) been convicted of any crime involving fraud, dishonesty or deceit;

(c) delay closing of a mortgage loan for the purpose of increasing interest, costs, fees or charges payable by the borrower;

(d) misrepresent the material facts or make false promises intended to influence, persuade or induce an applicant for a mortgage loan or mortgagee to take a mortgage loan or cause or contribute to misrepresentation by any person acting on behalf of the person required to be licensed or registered;

(e) misrepresent to or conceal from an applicant for a mortgage loan a mortgagor or a lender, material facts, terms or conditions of a transaction to which the person required to be licensed or registered is a party;

(f) engage in any transaction, practice or business conduct that is not in good faith, or that operates a fraud upon any person in connection with ~~the making of or purchase or sale of any mortgage loan~~ *conducting mortgage business*;

(g) receive compensation for rendering mortgage business services where the licensee or registrant has otherwise acted as a real estate broker

or agent in connection with the sale of the real estate which secures the mortgage transaction unless the person required to be licensed or registered has provided written disclosure to the person from whom compensation is collected that the person is receiving compensation both for mortgage business services and for real estate broker or agent services;

(h) engage in any fraudulent residential mortgage brokerage or underwriting practices;

(i) advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner, any false, misleading or deceptive statement or representation with regard to rates, terms or conditions for a mortgage loan;

(j) record a mortgage if moneys are not available for the immediate disbursement to the mortgagor unless, before that recording, the person required to be licensed or registered informs the mortgagor in writing of a definite date by which payment shall be made and obtains the mortgagor's written permission for the delay;

(k) transfer, assign or attempt to transfer or assign, a license or registration to any other person, or assist or aid and abet any person who does not hold a valid license or registration under this act in engaging in the conduct of mortgage business;

(l) solicit or enter into a contract with a borrower that provides in substance that the person required to be licensed or registered may earn a fee or commission through best efforts to obtain a loan even though no loan is actually obtained for the borrower;

(m) solicit, advertise or enter into a contract for specific interest rates, points or other financing terms unless the terms are actually available at the time of soliciting, advertising or contracting;

(n) make any payment, threat or promise, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan or make any payment, threat or promise, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property or engage in any activity that would constitute a violation of K.S.A. 58-2344, and amendments thereto; or

(o) fail to comply with this act or rules and regulations promulgated under this act or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under this act.

Sec. 10. K.S.A. 2015 Supp. 9-2216 is hereby amended to read as follows: 9-2216. (a) A licensee shall keep copies of all documents or correspondence received or prepared by the licensee or registrant in connection with a loan or loan application and those records and documents required by the commissioner by rules and regulations adopted pursuant to K.S.A. 9-2209, and amendments thereto, for such time frames as are

specified in the rules and regulations. If the loan is not serviced by a licensee, the retention period commences on the date the loan is closed or, if the loan is not closed, the date of the loan application. If the loan is serviced by a licensee, the retention period commences on the date the loan is paid in full or the date the licensee ceases to service the loan.

(b) All books, records and any other documents held by the licensee shall be made available for examination and inspection by the commissioner or the commissioner's designee. Certified copies of all records not kept within this state shall be delivered to the commissioner within three business days of the date such documents are requested.

(c) *Each licensee shall maintain the following information:*

- (1) *The name, address and telephone number of each loan applicant;*
- (2) *the type of loan applied for and the date of the application;*
- (3) *the disposition of each loan application, including the date of loan funding, loan denial, withdrawal and name of lender if applicable and name of loan originator and any compensation or other fees received by the loan originator.*

~~(d)~~(d) Each licensee shall establish, maintain and enforce written policies and procedures regarding security of records which are reasonably designed to prevent the misuse of a consumer's personal or financial information.

~~(d)~~(e) Before ceasing to conduct or discontinuing business, a licensee shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this act and applicable regulations for the remainder of each period specified.

~~(e)~~(f) Any records required to be retained may be maintained and preserved by noneraseable, nonalterable electronic imaging or by photograph on film. If the records are produced or reproduced by photographic film, electronic imaging or computer storage medium the licensee shall meet the following criteria:

(1) Arrange the records and index the films, electronic image or computer storage media to permit immediate location of any particular record;

(2) be ready at all times to promptly provide a facsimile enlargement of film, a computer printout or a copy of the electronic images or computer storage medium that the commissioner may request; and

(3) with respect to electronic images and records stored on computer storage medium, maintain procedures for maintenance and preservation of, and access to, records in order to reasonably safeguard these records from loss, alteration or destruction.

~~(f)~~(g) No person required to be licensed or registered under this act shall:

(1) Alter, destroy, shred, mutilate, conceal, cover up or falsify any record with the intent to impede, obstruct or influence any investigation by the commissioner or the commissioner's designee; or

(2) alter, destroy, shred, mutilate or conceal a record with the intent to impair the object's integrity or availability for use in a proceeding before the commissioner or a proceeding brought by the commissioner.

Sec. 11. K.S.A. 2015 Supp. 9-2216a is hereby amended to read as follows: 9-2216a. ~~(a) Each licensee shall maintain a journal of mortgage transactions at the licensee's principal place of business, which shall include at least the following information: (1) Name, address and telephone number of each loan applicant, (2) type of loan applied for and date of application, and (3) disposition of each loan application, indicating date of loan funding, loan denial, withdrawal and name of lender if applicable and name of loan originator and any compensation or other fees received by the loan originator.~~

~~(b)~~—Each licensee shall annually, on or before April 1, file a written report with the commissioner containing the information that the commissioner may reasonably require concerning the licensee's business and operations during the preceding calendar year. The report shall be made in the form prescribed by the commissioner, *which may include reports filed with the nationwide mortgage licensing system and registry*. Any licensee who fails to file the report required by this section with the commissioner by April 1 shall be subject to a late penalty of \$100 for each day after April 1 the report is delinquent, but in no event shall the aggregate of late penalties exceed \$5,000. The commissioner may relieve any licensee from the payment of any penalty, in whole or in part, for good cause. *The filing of the annual written report required under this section shall satisfy any other reports required of a licensee under this act.*

Sec. 12. K.S.A. 9-2206 and K.S.A. 2015 Supp. 9-2201, 9-2202, 9-2203, 9-2205, 9-2208, 9-2209, 9-2211, 9-2212, 9-2216 and 9-2216a are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 23, 2016.

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## CHAPTER 16

## HOUSE BILL No. 2485

AN ACT concerning insurance; relating to risk-based capital instructions; effective date; amending K.S.A. 2015 Supp. 40-2c01 and repealing the existing section.

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

Section 1. K.S.A. 2015 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, ~~2014~~ 2015, or any later version promulgated by the NAIC as may be adopted by the commissioner under K.S.A. 2015 Supp. 40-2c29, and amendments thereto.

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



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

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

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

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

(l) “RBC plan” means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner’s recommendation, the plan shall be called the “revised RBC plan.”

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

(n) “Total adjusted capital” means the sum of:

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

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

(o) “Commissioner” means the commissioner of insurance.

Sec. 2. K.S.A. 2015 Supp. 40-2c01 is hereby repealed.

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

Approved March 24, 2016.

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## CHAPTER 17

### HOUSE BILL No. 2454\*

AN ACT concerning insurance; relating to accident and sickness insurance; policy provisions; requiring health services to be rendered by participating providers.

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

Section 1. (a) (1) A health carrier may offer a policy of accident and sickness insurance that requires some or all health care services to be rendered by participating providers, except that emergency services must be covered regardless of whether they are delivered by a participating provider.

(2) Such policy may include a gatekeeper requirement.

(3) To the extent the policy provides coverage for services rendered by nonparticipating providers, such coverage may be subject to a deductible, copayments or coinsurance as determined by the health carrier.

Notwithstanding any other provision of law to the contrary, such cost-sharing shall not be limited based on the deductible, coinsurance or co-payments required for services rendered by participating providers.

(b) For purposes of this section:

(1) “Gatekeeper requirement” means a requirement in which the insured is required to obtain a referral from a primary care professional in order to access specialty care;

(2) “primary care professional” means a participating provider designated by the health carrier to supervise, coordinate or provide initial care or continuing care to an insured and who may be required by the health carrier to initiate a referral for specialty care;

(3) “participating provider” shall have the meaning ascribed to it in K.S.A. 40-4602, and amendments thereto;

(4) “emergency services” shall have the meaning ascribed to it in K.S.A. 40-4602, and amendments thereto; and

(5) “health carrier” means any insurance company, nonprofit medical and hospital corporation, municipal group funded-pool or fraternal benefit society which offers a policy of accident and sickness insurance subject to chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

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

Approved March 24, 2016.

Published in the *Kansas Register* April 7, 2016.

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## CHAPTER 18

### HOUSE BILL No. 2442

AN ACT concerning the legislative division of post audit; relating to information technology audits; amending K.S.A. 2015 Supp. 46-1135 and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 46-1135 is hereby amended to read as follows: 46-1135. (a) The legislative division of post audit shall conduct information technology audits as directed by the legislative post audit committee. Audit work performed under this section may include:

(1) Assessment of security practices of information technology systems maintained or administered by any state agency or any entity subject to audit under the provisions of K.S.A. 46-1114(c), and amendments thereto; and

(2) continuous audits of ongoing information technology projects by any state agency or any entity subject to audit under the provisions of

K.S.A. 46-1114(c), and amendments thereto, including systems development and implementation.

(b) Written reports on the results of such auditing shall be furnished to the governor,:

- (1) The entity which is being audited;
- (2) the chief information technology ~~officers-officer~~ of the executive, legislative and judicial branches *branch of government that the entity being audited is part of;*
- (3) (A) *the governor, if the entity being audited is an executive branch entity;*  
 (B) *the legislative coordinating council, if the entity being audited is a legislative entity; or*  
 (C) *the chief justice of the Kansas supreme court, if the entity being audited is a judicial entity;*
- (4) the legislative post audit committee;
- (5) the joint committee on information technology; and
- (6) such other persons or agencies as may be required by law or by the specifications of the audit or as otherwise directed by the legislative post audit committee.

(c) The provisions of K.S.A. 46-1106(g), and amendments thereto, shall apply to any audit or audit work conducted pursuant to this section.

(d) This section shall be part of and supplemental to the legislative post audit act.

Sec. 2. K.S.A. 2015 Supp. 46-1135 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 24, 2016.

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CHAPTER 19

HOUSE BILL No. 2536

AN ACT concerning accountants; relating to licensure; amending K.S.A. 2015 Supp. 1-307, 1-308, 1-311, 1-312, 1-321 and 1-322 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 1-307 is hereby amended to read as follows: 1-307. (a) The board, in its discretion, may waive the examination of and may issue a certificate to a holder of a certificate as a “certified public accountant” issued under the laws of any state upon a showing that:

- (1) The applicant passed the examination required for issuance of the applicant’s certificate with grades that would have been passing grades at

the time in this state; and the applicant: (A) Meets all current requirements in this state for the issuance of a certificate at the time application is made;; (B) at the time of the issuance of the applicant's certificate in the other state, met all such requirements then applicable in this state;; or (C) had four years of experience of the type described in ~~subsection (a) of~~ K.S.A. 1-302b(a), and amendments thereto, after passing the examination upon which the applicant's certificate was based and within the 10 years immediately preceding the application; or

(2) the applicant meets the substantial equivalency standard set out in either ~~paragraph (1) or paragraph (2) of subsection (a) of~~ K.S.A. 1-322(a)(1) or (2), and amendments thereto.

(b) The board shall issue a certificate to a holder of a foreign designation, granted in a foreign country entitling the holder thereof to engage in the practice of certified public accountancy, provided that:

(1) The foreign authority which granted the designation makes similar provision to allow a person who holds a valid certificate issued by this state to obtain such foreign authority's comparable designation;

(2) the foreign designation: (A) Was duly issued by a foreign authority that regulates the practice of certified public accountancy and the foreign designation has not expired or been revoked or suspended; (B) entitles the holder to issue reports upon financial statements; and (C) was issued upon the basis of educational, examination and experience requirements established by the foreign authority or by law;

(3) the applicant: (A) Received the designation, based on educational and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted; (B) completed an experience requirement, substantially equivalent to the requirement set out in K.S.A. 1-302b, and amendments thereto, in the jurisdiction which granted the foreign designation; and (C) passed a uniform qualifying examination in national standards and an examination on the laws, regulations and code of ethical conduct in effect in this state acceptable to the board; and

(4) the applicant shall in the application list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy.

Each holder of a certificate issued under this subsection shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction. The board has the sole authority to interpret the application of the provisions of this subsection.

Sec. 2. K.S.A. 2015 Supp. 1-308 is hereby amended to read as follows: 1-308. (a) Unless exempt from registration pursuant to this section, a firm may engage in the practice of certified public accountancy in this state

only if the firm registers with the board, complies with requirements established by rules and regulations adopted by the board for such registration, and meets the following requirements:

(1) At least one general partner, shareholder or member thereof must be a certified public accountant holding a valid permit to practice from this state or a practice privilege under ~~subsection (a) of K.S.A. 1-322(a)~~, and amendments thereto;

(2) each partner, shareholder or member who is a certified public accountant and whose principal place of business is in this state and who is personally engaged within this state in a practice of certified public accounting must be a certified public accountant of this state holding a valid permit to practice;

(3) each partner, shareholder or member who is a certified public accountant thereof must be a certified public accountant in some state in good standing;

(4) each resident manager in charge of an office of the firm in this state must be a certified public accountant of this state holding a valid permit to practice; and

(5) at least a simple majority of the ownership of the firm, in the terms of equity capital and voting rights of all partners, shareholders or members, belongs to the holders of valid licenses to practice as certified public accountants in some state. All nonlicensee owners must be of good moral character and must be natural persons actively participating in the business of the firm or actively participating in the business of entities, such as partnerships, corporations or other business associations, that are affiliated with the firm. Although firms may include nonlicensee owners there shall be at least one certified public accountant who has ultimate responsibility for all the services provided by the firm and, the firm and its ownership must comply with rules and regulations promulgated by the board. Any firm which is denied registration pursuant to this section shall be entitled to notice and an opportunity to be heard pursuant to the Kansas administrative procedures act.

(b) Notwithstanding any other provision of Kansas law, the following must be registered by the board:

(1) Any firm with an office in this state which practices certified public accountancy; and

(2) any firm that does not have an office in this state but performs or offers to perform attest services described in ~~subsection (d) of K.S.A. 1-321(d)~~, and amendments thereto, for a client ~~having its home office~~ in this state.

(c) A firm which is not subject to subsection (b) may perform or offer to perform services described in ~~subsection (s) of K.S.A. 1-321(r)~~, and amendments thereto, and may use the “certified public accountant,” “CPA” or “CPA firm” without registering with the board only if:

(1) The individuals performing such services on behalf of the firm

have the qualifications described in ~~subsections (b) and (c) of~~ K.S.A. 1-302b(b) and (c), and amendments thereto;

(2) it performs such services through an individual with practice privileges under K.S.A. 1-322, and amendments thereto; and

(3) it can lawfully perform such services in the state where such individuals with practice privileges have their principal place of business.

(d) An individual who has practice privileges under ~~subsection (a) of~~ K.S.A. 1-322(a), and amendments thereto, who performs or offers to perform services for which a firm registration is required under this section shall not be required to obtain a certificate or permit under K.S.A. 1-310, and amendments thereto.

(e) Nothing in this section shall prohibit a professional corporation from practicing in partnership with one or more professional corporations or individuals and being registered with the board as a partnership under this section.

(f) The term “resident” as used in this section, shall include a person engaged in practice as a certified public accountant in this state, who spends all or the greater part of such person’s time during business hours in this state, but who resides in another state.

(g) Each firm required to register under this section shall register prior to engaging in the practice of certified public accountancy in this state and shall renew the firm’s registration by December 31 of each year. Each firm shall designate a permit holder of this state, or in the case of a firm which must register pursuant to ~~paragraph (2) of subsection (b)(2)~~ a licensee of another state who meets the requirements set out in ~~subsection (a) of~~ K.S.A. 1-322(a), and amendments thereto, who is responsible for the proper registration of the firm and shall identify that individual to the board by affidavit of a general partner, manager or officer of the firm. A fee may be charged for the registration of a firm.

(h) A firm that is not registered in accordance with this section or not exempt from registration under subsection (c) shall not use the words “certified public accountants” or the abbreviation CPA in connection with its name. Notification shall be given the board, within one month, after the admission or withdrawal of a partner, shareholder or member from any registered firm. Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as determined by the board will result in the suspension or revocation of the firm permit.

(i) Any firm prohibited from practicing certified public accountancy in this state, as a result of having a firm registration revoked or suspended by the board, shall not practice under subsection (c) without first obtaining the approval of the board.

Sec. 3. K.S.A. 2015 Supp. 1-311 is hereby amended to read as follows: 1-311. (a) The board may deny an application for a Kansas certificate, revoke or suspend any certificate issued under the laws of this state, may *deny an application for a permit*, revoke, suspend or refuse to renew any permit issued under K.S.A. 1-310, and amendments thereto, or may revoke or suspend a practice privilege under K.S.A. 1-322, and amendments thereto, ~~and any notification issued pursuant to K.S.A. 1-322, and amendments thereto,~~ may censure the holder of any such permit, certificate, ~~notification~~ or practice privilege, limit the scope of practice of any permit holder, and may impose an administrative fine not exceeding \$5,000, for any one of the following causes:

(1) Fraud, dishonesty or deceit in obtaining a certificate, permit, firm registration, ~~notification~~ or practice privilege;

(2) cancellation, revocation, suspension or refusal to renew a person's authority to practice for disciplinary reasons in any other jurisdiction for any cause;

(3) failure, on the part of a holder of a permit to practice, ~~notification~~ or practice privilege to maintain compliance with the requirements for issuance or renewal of such permit, notification or practice privilege;

(4) *sanction, censure, disciplinary action* or revocation or suspension of the right to practice, by the PCAOB or any state or federal agency;

(5) dishonesty, fraud or gross negligence in the practice of certified public accountancy;

(6) failure to comply with applicable federal or state requirements regarding the timely filing of the person's personal tax returns, the tax returns of the person's firm or the timely remittance of payroll and other taxes collected on behalf of others;

(7) violation of any provision of this act or rule and regulation of the board except for a violation of a rule of professional conduct;

(8) willful violation of a rule of professional conduct;

(9) violation of any order of the board;

(10) conviction of any felony, or of any crime an element of which is dishonesty, deceit or fraud, under the laws of the United States, of Kansas or of any other state, if the acts involved would have constituted a crime under the laws of Kansas;

(11) performance of any fraudulent act while holding a Kansas certificate;

(12) making any false or misleading statement or verification, in support of an application for a certificate, permit, notification or firm registration filed by another;

(13) failure to establish timely compliance with peer review pursuant to K.S.A. 1-501, and amendments thereto; and

(14) any conduct reflecting adversely on a person's fitness to practice certified public accountancy.

(b) In lieu of or in addition to any remedy specifically provided in

subsection (a), the board may require of a permit holder satisfactory completion of such continuing education programs as the board may specify.

(c) All administrative proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and the Kansas judicial review act.

Sec. 4. K.S.A. 2015 Supp. 1-312 is hereby amended to read as follows: 1-312. (a) Except as provided in subsection (b), the board may deny an application to register a firm, revoke or suspend a firm's registration, censure a firm, limit the scope of practice of a firm or impose such remedial action as it deems necessary to protect the public interest, or both, and impose an administrative fine not exceeding \$5,000 for any one of the following causes:

- (1) Failure to meet the requirements of K.S.A. 1-308, and amendments thereto;
- (2) fraud, dishonesty or deceit in obtaining a registration;
- (3) *sanction, censure, disciplinary action or* revocation or suspension of a firm's right to practice, by the PCAOB or any state or federal agency;
- (4) dishonesty, fraud or gross negligence in the practice of certified public accountancy;
- (5) violation of any provision of chapter 1 of the Kansas Statutes Annotated, *and amendments thereto*, and rules and regulations promulgated by the board except for a violation of a rule of professional conduct;
- (6) willful violation of a rule of professional conduct;
- (7) violation of any order of the board;
- (8) cancellation, revocation, suspension or refusal to renew the authority of a firm to practice certified public accountancy in any other state;
- (9) conviction of any felony, or of any crime an element of which is dishonesty, deceit or fraud, under the laws of the United States, of Kansas or of any other state, if the acts involved would have constituted a crime under the laws of Kansas; or
- (10) failure to establish timely compliance with peer review pursuant to K.S.A. 1-501, and amendments thereto;

(b) In actions arising under peer review for reports modified for matters relating to attest services, the board may take such remedial action as it deems necessary to protect the public interest. However, the board may not limit the scope of practice of attest services of a firm or limit the scope of practice of attest services of any permit holder under K.S.A. 1-311, and amendments thereto, for failure to comply with generally accepted accounting principles, generally accepted auditing standards and other similarly recognized authoritative technical standards unless:

- (1) The firm has received at least two modified peer review reports during 12 consecutive years relating to attest services and the board finds that the firm has exhibited a course of conduct that reflects a pattern of noncompliance with applicable professional standards and practices; or



(2) the firm has failed to abide by remedial measures required by a peer review committee or the board.

(c) Nothing in subsection (b) shall be construed to preclude the board from: Limiting the scope of practice of attest services of a firm or limiting the scope of practice of attest services of a permit holder under K.S.A. 1-311, and amendments thereto; or taking such remedial action as the board deems necessary to protect the public interest, after the board's review of an adverse peer review report based on matters relating to attest services if the board determines that the firm failed to comply with generally accepted accounting principles, generally accepted auditing standards and other similarly recognized authoritative technical standards.

(d) After considering AICPA standards on peer review, the board may define, by rules and regulations, the terms "modified" and "adverse."

(e) At the time of suspension or revocation of a firm's registration, the board may suspend or revoke the permit to practice of a member, shareholder or partner of a firm if the permit holder is the only Kansas member, shareholder or partner of the firm. The permit shall be reinstated upon reinstatement of the firm's registration.

(f) All administrative proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and the Kansas judicial review act.

(g) The board shall not have the power to assess fines under this section if a fine has been assessed for the same or similar violation under the provisions of ~~subsection (a) of~~ K.S.A. 1-311(a), and amendments thereto.

Sec. 5. K.S.A. 2015 Supp. 1-321 is hereby amended to read as follows: 1-321. When used in chapter 1 of the Kansas Statutes Annotated, and amendments thereto, the following terms shall have the meanings indicated:

(a) "Actively participate" means participation that is continuous as one's primary occupation.

(b) "Affiliated entity" means one that provides services to the CPA firm or provides services to the public that are complementary to those provided by the CPA firm.

(c) "AICPA" means the American institute of certified public accountants.

(d) "Attest" means providing the following ~~financial statement~~ services:

(1) Any audit or other engagement to be performed in accordance with the statements on auditing standards (SAS);

(2) any audit to be performed in accordance with the Kansas municipal audit guide;

(3) any review of a financial statement to be performed in accordance

with the statements on standards for accounting and review services (SSARS);

(4) any engagement, except a compilation, to be performed in accordance with the statements on standards for attestation engagements (SSAE); and

(5) any engagement to be performed in accordance with the standards of the PCAOB.

(e) “Board” means the Kansas board of accountancy established under K.S.A. 1-201, and amendments thereto.

(f) “Certificate” means a certificate as a certified public accountant issued under K.S.A. 1-302, and amendments thereto, or a certificate as a certified public accountant issued after examination under the law of any other state.

(g) “Client” means a person or entity that agrees with a permit holder *or firm* to receive any professional service.

(h) “Compilation” means providing a service to be performed in accordance with the statements on standards for accounting and review services (SSARS) or the statements on standards for attestation engagements (SSAE) the objective of which is to present in the form of financial statements, information that is the representation of management or owners, or both, without undertaking to express any assurance on the statements.

(i) “Directed” means the location to which the engagement letter is sent.

(j) “Equity capital” means: (1) Capital stock, capital accounts, capital contributions or undistributed earnings of a registered firm as referred to in K.S.A. 1-308, and amendments thereto; and (2) loans and advances to a registered firm made or held by its owners. “Equity capital” does not include an interest in bonuses, profit sharing plans, defined benefit plans or loans to a registered firm from banks, financial institutions or other third parties that do not actively participate in such registered firm.

(k) “Firm” means:

(1) An individual who operates as a sole practitioner and who issues reports subject to peer review; or

(2) any business organization including, but not limited to, a general partnership, limited liability partnership, general corporation, professional corporation or limited liability company.

(l) “Good moral character” means lack of a history of ~~professional dishonesty or other a felonious-acts act.~~

~~(m) “Home office” means the location specified by the client as the address to which a service described in subsection (d) of K.S.A. 1-322, and amendments thereto, is directed.~~

~~(n)~~(m) “Active license” means a certificate or a permit to practice issued by another state that is currently in force and authorizes the holder to practice certified public accountancy.

~~(o)~~(n) “Licensee” means the holder of a certificate or a permit to practice issued by this state or another state.

~~(p)~~(o) “Manager” means a manager of a limited liability company.

~~(q)~~(p) “Member” means a member of a limited liability company.

~~(r)~~(q) “NASBA” means the national association of state boards of accountancy.

~~(s)~~(r) “Nonattest” means providing the following services:

(1) The preparation of tax returns and providing advice on tax matters;

(2) the preparation of any compilation;

(3) management advisory, consulting, litigation support and assurance services, except for attest services;

(4) financial planning;

(5) valuation services; and

(6) any other financial service not included in the statements on auditing standards, the statements on standards for accounting and review services, the standards for attestation engagements as developed by the American institute of certified public accountants or as defined by the board.

~~(t)~~(s) “PCAOB” means the public company accounting oversight board created by the Sarbanes-Oxley act of 2002.

~~(u)~~(t) “Practice of certified public accountancy” means performing or offering to perform attest or nonattest services for the public while using the designation “certified public accountant” or CPA in conjunction with such services.

~~(v)~~(u) “Practice of public accountancy” means performing or offering to perform attest or nonattest services for the public by a person not required to have a permit to practice or a firm not required to register with the board.

~~(w)~~(v) “Principal place of business” means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

~~(x)~~(w) “Professional” means arising out of or related to the specialized knowledge or skills associated with CPAs.

~~(y)~~(x) “Report,” when used with reference to ~~financial statements~~ *any attest or compilation service*, means an opinion, report or other form of language that states or implies assurance as to the reliability of ~~any the~~ *attested information or compiled* financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use, by the issuer of the report, of names or titles indicating that the person or firm is an accountant or auditor or from the language of the report itself. The term report includes any form of language which disclaims an opinion when such form of language is conven-

tionally understood to imply any positive assurance as to the reliability of the *attested information or compiled* financial statements referred to or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.

~~(z)~~(y) “Rule” means any rule or regulation adopted by the board.

~~(aa)~~(z) “State” means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that “this state” means the state of Kansas.

~~(bb)~~(aa) “Substantial equivalency” is a determination by the board of accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed the education, examination and experience requirements contained in the uniform accountancy act or that an individual CPA’s education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in the uniform accountancy act. In ascertaining substantial equivalency as used in this act, the board shall take into account the qualifications without regard to the sequence in which experience, education or examination requirements were attained.

~~(cc)~~(bb) “Uniform accountancy act” means model legislation issued by the AICPA and NASBA in existence on July 1, 2007.

Sec. 6. K.S.A. 2015 Supp. 1-322 is hereby amended to read as follows: 1-322. (a) (1) An individual whose principal place of business is not in this state having an active license to practice certified public accountancy from any state which the board or its designee has verified to be in substantial equivalence with the CPA licensure requirements of the uniform accountancy act shall be presumed to have qualifications substantially equivalent to this state’s requirements and may be granted all the privileges of permit holders of this state without the need to obtain a permit issued under K.S.A. 1-310, and amendments thereto; or

(2) an individual whose principal place of business is not in this state having an active license to practice certified public accountancy from any state which the board or its designee has not verified to be in substantial equivalency with the CPA licensure requirements of the uniform accountancy act shall be presumed to have qualifications substantially equivalent to this state’s requirements and may be granted all the privileges of permit holders of this state without the need to obtain a permit to practice issued under K.S.A. 1-310, and amendments thereto, if such individuals certified public accountancy qualifications are substantially equivalent to the following requirements:

(A) Have at least 150 semester hours of college education, including

a baccalaureate or higher academic degree, with a concentration in accounting as defined by the home licensing jurisdiction, from a college or university;

(B) obtains credit for passing each of the four test sections of the uniform certified public accountant examination; and

(C) possess at least one year of experience including service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills, all of which were verified by a certified public accountant holding an active license to practice.

Any individual who has passed the uniform certified public accountant examination and holds a valid license to practice certified public accountancy issued by another state prior to January 1, 2012, may be exempt from the education requirement in ~~subparagraph (A) of paragraph (2) of subsection (a)(2)(A)~~ for the purposes of this section.

~~(b) Individuals seeking to practice certified public accountancy in Kansas pursuant to subsection (a) shall notify the board prior to commencing practice in this state. Such individuals shall have a reasonable amount of time from the date of such notification to the board to complete an application of notification provided by the board and shall renew such notification on a biennial basis. The board may enact rules and regulations governing notification and renewal. Notwithstanding any other provision of law, an individual who offers or renders professional services on or after November 1, 2009, whether in person, by mail, telephone or electronic means, and possesses the qualifications set forth in paragraph (1) or (2) of subsection (a) shall be granted practice privileges in this state and no notice, fee or other submission shall be provided by any such individual. Permits issued pursuant to this section prior to November 1, 2009, shall continue in effect until the expiration date of the permit.~~

~~(c) The board may charge a fee for such notification and a renewal of such notification pursuant to K.S.A. 1-301, and amendments thereto.~~

~~(d)(b)~~ Any licensee of another state exercising the privilege afforded under subsection ~~(b)~~ (a) and the firm which employs that licensee hereby simultaneously consent, as a condition of the grant of this privilege:

(1) To the personal and subject matter jurisdiction of this board;

(2) to the appointment of the state regulatory body which issued their licenses as the agent upon whom process may be served in any action or proceeding by the Kansas board against the licensee;

(3) to cease offering or rendering professional services in this state individually and on behalf of the firm in the event that the license from the state of the individual's principal place of business is no longer valid; and

(4) to comply with this act and the board's rules and regulations.

~~(e)(c)~~ An individual who has been granted practice privileges under this section who, for any client ~~having its home office~~ in this state, performs any of the following services: (1) Any audit or other engagement

to be performed in accordance with the statements on auditing standards (SAS); (2) any audit to be performed in accordance with the Kansas municipal audit guide; (3) any review of a financial statement to be performed in accordance with the statements on standards for accounting and review services (SSARS); (4) any engagement, except a compilation, to be performed in accordance with the statements on standards for attestation engagements (SSAE); and (5) any engagement to be performed in accordance with the standards of the PCAOB; may only do so through a firm which has registered pursuant to K.S.A. 1-308, and amendments thereto.

~~(f)~~(d) Any individual prohibited from practicing certified public accountancy in this state, as a result of having a permit, certificate or practice privilege revoked or suspended by the board, shall not be granted practice privileges under this section without first obtaining the approval of the board.

~~(g)~~(e) A holder of a permit to practice issued by this state offering or rendering services or using a CPA title in another state may be subject to disciplinary action in this state for an act committed in another state for which the permit holder would be subject to discipline for an act committed in the other state. The board shall investigate any complaint made by the board of accountancy of another state.

Sec. 7. K.S.A. 2015 Supp. 1-307, 1-308, 1-311, 1-312, 1-321 and 1-322 are hereby repealed.

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

Approved March 24, 2016.

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## CHAPTER 20

### HOUSE BILL No. 2516

AN ACT concerning the department of health and environment; relating to the asbestos control act, licensing requirements; air fee fund, transfers; amending K.S.A. 65-5301, 65-5303, 65-5304, 65-5307, 65-5309 and 65-5311 and K.S.A. 2015 Supp. 65-5310 and 65-5314 and repealing the existing sections; also repealing K.S.A. 65-5308.

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

Section 1. K.S.A. 65-5301 is hereby amended to read as follows: 65-5301. As used in this act:

(a) “Asbestos project” means an activity undertaken to remove or encapsulate friable asbestos containing materials.

(b) “Business entity” means a partnership, firm, association, corporation, sole proprietorship; or other business concern.

~~(c)~~—“Certificate” means an authorization issued by the secretary permitting an individual person to engage in an asbestos project.

~~(d)~~ “License” means an authorization issued by the secretary permitting a business entity to engage in an asbestos project.

~~(e)~~(d) “Secretary” means the secretary of health and environment.

~~(f)~~(e) “Friable asbestos containing material” means any material that contains more than 1% asbestos, by weight, which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building and which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure.

~~(g)~~(f) “Asbestos” means that asbestiform varieties of: Chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite.

Sec. 2. K.S.A. 65-5303 is hereby amended to read as follows: 65-5303. The secretary shall administer the provisions of this act. In administering the provisions of this act, the secretary shall:

(a) Prescribe fees for the issuance and renewal of ~~certificates and~~ licenses. The fees shall be based upon the amount of revenue determined by the secretary to be required for proper administration of the provisions of this act;

(b) conduct on-site inspections of procedures being utilized by a licensee for removing and encapsulating asbestos during an actual asbestos project;

(c) inspect and approve asbestos disposal sites; and

(d) adopt rules and regulations necessary for the administration of this act including, but not limited to, requirements, procedures and standards relating to asbestos projects as are necessary to protect the public health and safety.

Sec. 3. K.S.A. 65-5304 is hereby amended to read as follows: 65-5304. In order to qualify for a license, a business entity shall:

(a) Ensure that each employee or agent of the business entity who will come into contact with asbestos or who will engage in an asbestos project is ~~certified~~ *trained in accordance with all applicable asbestos training provisions required by the United States department of labor and the environmental protection agency*;

(b) demonstrate to the satisfaction of the secretary that the business entity is capable of complying with all applicable requirements, procedures, standards of the United States environmental protection agency and the United States occupational safety and health administration and the secretary;

(c) have access to at least one approved asbestos disposal site for deposit of all asbestos waste that the business entity will generate during the term of the license; and

(d) comply with all rules and regulations adopted by the secretary under this act.

Sec. 4. K.S.A. 65-5307 is hereby amended to read as follows: 65-5307. (a) Every licensee shall keep a record of each asbestos project it performs and shall make the record available to the secretary at any reasonable time. Records required by this section shall be kept for not less than ~~six~~ *three* years. The record shall include:

(1) The name, ~~and~~ address ~~and certificate number~~ of the individual person who supervised the asbestos project and of each employee or agent of the licensee who worked on the project;

(2) the location and a description of the project and the amount of asbestos material that was removed;

(3) the starting and completion dates of each instance of removal or encapsulation;

(4) a summary of the procedures that were used to comply with all applicable standards;

(5) the name and address of each asbestos disposal site where the waste containing asbestos was deposited; and

(6) any other information which may be required by the secretary.

(b) Every licensee, state agency or political or taxing subdivision of the state that engages in an asbestos project shall notify the secretary, in the manner prescribed by the secretary, of the proposed date on which the project is to be initiated.

Sec. 5. K.S.A. 65-5309 is hereby amended to read as follows: 65-5309. (a) The secretary shall establish by rules and regulations a reasonable schedule of fees for licensure, ~~for certification~~ and for project evaluations under this act. The fee schedule shall be established on the basis of determination by the secretary of the amount of revenue required for administration of the provisions of this act.

(b) The secretary shall remit all moneys received from the fees established pursuant to 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 state general fund.

Sec. 6. K.S.A. 2015 Supp. 65-5310 is hereby amended to read as follows: 65-5310. (a) The secretary may deny, suspend or revoke any license issued under this act if the secretary finds, after notice and hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that the applicant for license or licensee, whichever is applicable, has:

(1) Fraudulently or deceptively obtained or attempted to obtain a license;

(2) failed at any time to meet the qualifications for a license or to comply with any provision or requirement of this act or any rules and regulations adopted by the secretary under this act;



(3) failed at any time to meet any applicable federal or state standard for removal or encapsulation of asbestos; or

(4) employed or permitted an ~~uncertified~~ *untrained* individual person to work on an asbestos project.

~~(b) The secretary may deny, suspend or revoke any certificate issued under this act if the secretary finds, after notice and hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that the applicant for certificate or certificate holder, whichever is applicable, has:~~

~~(1) Fraudulently or deceptively obtained or attempted to obtain a certificate; or~~

~~(2) failed at any time to meet the qualifications for a certificate or to comply with any provision or requirement of this act or any rules and regulations adopted by the secretary under this act.~~

~~(e) Before any license or certificate is denied, suspended or revoked, the secretary shall conduct a hearing thereon in accordance with the provisions of the Kansas administrative procedure act.~~

~~(d)(c)~~ Any individual person or business entity aggrieved by a decision or order of the secretary may appeal the order or decision in accordance with the provisions of the Kansas judicial review act.

~~(e)(d)~~ (1) If the secretary finds that the public health or safety is endangered by the continuation of an asbestos project, the secretary may temporarily suspend, without notice or hearing in accordance with the emergency adjudication procedures of the provisions of the Kansas administrative procedure act, the license of the business entity ~~or the certificate of any person~~ engaging in such asbestos project.

(2) In no case shall a temporary suspension of a license ~~or certificate~~ under this section be in effect for a period of time in excess of 90 days. At the end of such period of time, the license ~~or certificate~~ shall be reinstated unless the secretary has suspended or revoked the license ~~or certificate~~, after notice and hearing, or the license has expired as otherwise provided under this act.

Sec. 7. K.S.A. 65-5311 is hereby amended to read as follows: 65-5311.

(a) In an emergency that results from a sudden, unexpected event that is not a planned renovation or demolition, the secretary may waive the requirement for a license.

(b) The secretary may approve, on a case-by-case basis, an alternative to a required public health protection procedure for an asbestos project if the business entity or state or political or taxing subdivision of the state submits a written description of the alternative procedure to the secretary and demonstrates to the satisfaction of the secretary that the proposed alternative procedure provides equivalent protection.

(c) If a business entity or state or political or taxing subdivision of the state is not primarily engaged in the removal or encapsulation of asbestos,

the secretary may waive the requirement for a license ~~or employee certification~~ if public health protection requirements are met or an alternative procedure is approved under subsection (b).

Sec. 8. K.S.A. 2015 Supp. 65-5314 is hereby amended to read as follows: 65-5314. (a) Any business entity which violates any provision of this act or any rules and regulations adopted under this act, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in an amount not to exceed \$5,000 for each violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) The secretary, upon a finding that a business entity has violated any provision of this act or any rules and regulations adopted under this act, may impose a civil penalty within the limits provided in this section upon such business entity, which civil penalty shall be in an amount to constitute an actual and substantial economic deterrent to the violation for which the civil penalty is assessed.

(c) No civil penalty shall be imposed under this section except upon the written order of the secretary after notification and hearing, if a hearing is requested, in accordance with the provisions of the Kansas administrative procedure act.

(d) Any business entity aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act. An appeal to the district court or to an appellate court shall not stay the payment of the civil penalty. If the court sustains the appeal, the secretary shall refund forthwith the payment of any civil penalty to the business entity with interest at the rate established by K.S.A. 16-204, and amendments thereto, from the date of payment of the penalty.

(e) Any penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer, deposited in the state treasury and credited to the state general fund.

Sec. 9. K.S.A. 65-5301, 65-5303, 65-5304, 65-5307, 65-5308, 65-5309 and 65-5311 and K.S.A. 2015 Supp. 65-5310 and 65-5314 are hereby repealed.

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

Approved March 24, 2016.

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## CHAPTER 21

## HOUSE BILL No. 2567

AN ACT concerning military members and veterans; relating to postsecondary educational institutions; tuition and fees; amending K.S.A. 2015 Supp. 48-3601 and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 48-3601 is hereby amended to read as follows: 48-3601. (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)~~(b) 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:

(1) (A) Files a letter of intent to establish residence in the state with the postsecondary educational institution at which the person intends to register; (B) lives in the state while attending the postsecondary educational institution ~~and the person;~~ and (C) 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;

(2) (A) *is a veteran; (B) was permanently stationed in Kansas during service in the armed forces or had established residency in Kansas prior to service in the armed forces; and (C) lives in Kansas at the time of enrollment; or*

(3) (A) *is the spouse or dependent of a veteran who was permanently stationed in Kansas during such veteran's service in the armed forces or had established residency in Kansas prior to service in the armed forces; and (B) lives in Kansas at the time of enrollment.*

~~(b)~~(c) 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) "school year 2015-2016" means July 1, 2015 through June 30, 2016; and

(4) "veteran" means a person who has been separated from the armed forces and was honorably discharged or received a general discharge under honorable conditions.

(d) *Any person enrolled in a postsecondary educational institution at any time during school year 2015-2016 who would have been entitled to*

*tuition and fee rates for a Kansas resident pursuant to subsection (b)(2) or (3) had such subsection been in effect, but who paid more than such tuition and fee rates for school year 2015-2016 shall be entitled to reimbursement of the difference between any tuition and fee rates such person paid for school year 2015-2016 and the tuition and fee rate such person would have paid as a Kansas resident if such subsection had been in effect.*

~~(e)~~(e) This section shall be part of and supplemental to chapter 48 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. K.S.A. 2015 Supp. 48-3601 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 24, 2016.

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## CHAPTER 22

### HOUSE BILL No. 2512

AN ACT relating to accountants; concerning professional licensure requirements; early access to the certified public accountant examination; amending K.S.A. 2015 Supp. 1-302a and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 1-302a is hereby amended to read as follows: 1-302a. (a) The education requirement prescribed by K.S.A. 1-302, and amendments thereto, is satisfied if the applicant meets all of the following requirements:

(1) Is the holder of a baccalaureate or higher academic degree from a college or university approved by the board;

(2) has been awarded credit by a college or university approved by the board for at least 150 semester hours, with a concentration in accounting; and

(3) the credit for the concentration in accounting is accepted by the board.

(b) An applicant for admission to take the initial examination in this state as required in K.S.A. 1-302, and amendments thereto, must submit evidence satisfactory to the board or to the examination service that the applicant *either*:

(1) Meets the requirements of subsection (a); or

(2) *reasonably expects to meet the requirements of subsection (a) within 60 days from the date the applicant takes the first section of such examination. The applicant shall submit final official transcripts and any documents verifying completion of the education requirements of subsection (a) to the board or the examination service within 120 days after the*

*applicant has taken the first section of the examination. If final official transcripts and any documents verifying completion of such education requirements are not received by the board or the examination service within 120 days after the applicant has taken the first section of the examination, the applicant’s grades for all sections of the examination may be voided, subject to notice and an opportunity for the applicant to be heard pursuant to the Kansas administrative procedures act.*

(c) The board may define, by rules and regulations, the term “concentration in accounting.” The board may also prescribe, by rules and regulations, the type and amount of credit submitted pursuant to subsection (a).

Sec. 2. K.S.A. 2015 Supp. 1-302a 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 24, 2016.

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CHAPTER 23

SENATE BILL No. 329

AN ACT concerning water; relating to multi-year flex accounts; amending K.S.A. 2015 Supp. 82a-708c and 82a-736 and repealing the existing sections.

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

Section 1. K.S.A. 2015 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. 2015 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 as provided in K.S.A. 82a-736, and amendments thereto.~~

(h) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

Sec. 2. K.S.A. 2015 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;

(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 K.S.A. 82a-1028(o), and amendments thereto; 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. *Any approval of an application to change the place of use of the base water right shall automatically result in a change to the place of use for the term permit.*

(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 imple-

mentation 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. 3. K.S.A. 2015 Supp. 82a-708c and 82a-736 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 24, 2016.

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## CHAPTER 24

### SENATE BILL No. 330\*

AN ACT concerning conservation; establishing the Kansas conservation reserve enhancement program.

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

Section 1. (a) As used in this section, “division” means the Kansas department of agriculture division of conservation.

(b) The division shall administer the conservation reserve enhancement program (CREP) on behalf of the state of Kansas pursuant to agreements with the United States department of agriculture for the purpose of implementing beneficial water quality and water quantity projects concerning targeted watersheds to be enrolled in CREP.

(c) There is hereby established in the state treasury the Kansas conservation reserve enhancement program fund, which shall be administered by the division. All expenditures from the Kansas conservation reserve enhancement program fund shall be for the implementation of CREP pursuant to agreements between the state of Kansas and the United States department of agriculture. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by the secretary’s designee.

(d) The division may request the assistance of other state agencies, Kansas state university, local governments and private entities in the implementation of CREP.

(e) The division may receive and expend moneys from the federal or state government or private sources for the purpose of carrying out the provisions of this section. All moneys received shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit

of the Kansas conservation reserve enhancement program fund. The division shall carry over unexpended moneys in the Kansas conservation reserve enhancement program fund from one fiscal year to the next.

(f) The division may enter into cost-share contracts with landowners that will result in fulfilling specific objectives of projects approved in agreements between the United States department of agriculture and the state of Kansas.

(g) The division shall administer all CREPs in Kansas subject to the following criteria:

(1) The aggregate total number of acres enrolled in Kansas in all CREPs shall not exceed 40,000 acres;

(2) the number of acres eligible for enrollment in CREP in Kansas shall be limited to  $\frac{1}{2}$  of the number of acres represented by federal contracts in the federal conservation reserve program that have expired in the prior year in counties within the particular CREP area, except that if federal law permits the lands enrolled in the CREP program to be used for agricultural purposes, such as planting agricultural commodities, including, but not limited to, grains, cellulosic or biomass materials, alfalfa, grasses or legumes, but not including cover crops, then the number of acres eligible for enrollment shall be limited to the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the specific CREP area;

(3) no more than 25% of the acreage in CREP may be in any one county, except that the last eligible offer to exceed the number of acres constituting a 25% acreage cap in any one county shall be approved;

(4) no whole-field enrollments shall be accepted into a CREP established for water quality purposes; and

(5) lands enrolled in the federal conservation reserve program as of January 1, 2008, shall not be eligible for enrollment in CREP.

(h) (1) For a CREP established with the purpose of meeting water quantity goals, the division shall administer such CREP in accordance with the following additional criteria:

(A) No water right that is owned by a governmental entity shall be purchased or retired by the state or federal government pursuant to CREP; and

(B) only water rights in good standing are eligible for inclusion under CREP.

(2) To be a water right in good standing:

(A) At least 50% of the maximum annual quantity authorized to be diverted under the water right that has been used in any three years within the most recent five-year period preceding the submission for which irrigation water use reports are approved and made available by the division of water resources of the Kansas department of agriculture;

(B) the water rights used for the acreage in CREP during the most recent five-year period preceding the submission for which irrigation wa-

ter use reports are approved and made available by the division of water resources, shall not have: (i) Exceeded the maximum annual quantity authorized to be diverted; and (ii) been the subject of enforcement sanctions by the division of water resources; and

(C) the water right holder has submitted the required annual water use report required under K.S.A. 82a-732, and amendments thereto, for each of the most recent 10 years.

(i) (1) The Kansas department of agriculture shall submit a CREP report to the senate committee on natural resources and the house committee on agriculture and natural resources at the beginning of each annual regular session of the legislature which shall contain a description of program activities for each CREP administered in the state and shall include:

(A) The acreage enrolled in CREP during fiscal year 2008 through the most current fiscal year to date;

(B) the dollar amounts received and expended for CREP during fiscal year 2008 through the most current fiscal year to date;

(C) an assessment of meeting each of the program objectives identified in the agreement with the farm services agency; and

(D) such other information specified by the Kansas department of agriculture.

(2) For a CREP established with the purpose of meeting water quantity goals, the following information shall be included in such annual report:

(A) The total water rights, measured in acre-feet, retired in CREP from fiscal year 2008 through the current fiscal year to date;

(B) the change in groundwater water levels in the CREP area during fiscal year 2008 through the most current fiscal year to date;

(C) the annual amount of water usage in the CREP area from fiscal year 2008 through the most current fiscal year to date; and

(D) the average water use, measured in acre-feet, for each of the five years preceding enrollment for each water right enrolled.

(j) The Kansas department of agriculture shall submit a report on the economic impact of each specific CREP to the senate committee on natural resources and the house committee on agriculture and natural resources every five years, beginning in 2017. The report shall include economic impacts to businesses located within each specific CREP region.

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

## CHAPTER 25

## SENATE BILL No. 412

AN ACT concerning counties; relating to the grant of an easement to a water district, conditions and purposes; amending K.S.A. 19-3521b and repealing the existing section.

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

Section 1. K.S.A. 19-3521b is hereby amended to read as follows: 19-3521b. (a) The secretary of state is hereby authorized and directed to grant an easement to water district no. 1 of Johnson county, Kansas, on a tract of land owned by the state of Kansas along the south and north banks of the Kansas river described as follows: Commencing at the east half of the southeast quarter of the southwest quarter of Section 31, Township 11 South, Range 24 East, the east half of the northeast quarter of the southwest quarter of Section 31, Township 11 South, Range 24 East, and the southeast quarter of Section 31, Township 11 South, Range 24 East. Less that part of the above described tract lying northerly of the northerly high bank of the Kansas River and less that part of such tract lying southerly of the southerly high bank of the Kansas River.

(b) Such easement shall be conditioned on water district no. 1 of Johnson county assuming full responsibility for the use of such easement and holding the state of Kansas harmless therefor. Such easement shall terminate if the land is no longer used for the purpose for which the easement was granted.

(c) Water district no. 1 of Johnson county, Kansas, is hereby authorized to acquire the easement described in subsection (a) and to use such easement for the ~~purpose~~ *purposes* of locating, constructing, maintaining and operating: (1) Diversion works for the appropriation of water ~~and to~~; and (2) *hydropower generation equipment and facilities for the production of electricity.* Water district no. 1 of Johnson county, Kansas, shall assume full responsibility for such use and hold the state of Kansas harmless therefor.

(d) Water district no. 1 of Johnson county, Kansas, shall assume full responsibility for any costs arising under this act.

Sec. 2. K.S.A. 19-3521b 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 24, 2016.

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## CHAPTER 26

## HOUSE BILL No. 2518

AN ACT concerning vital statistics; relating to electronic filing of death certificates and related documentation; amending K.S.A. 2015 Supp. 65-2412 and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 65-2412 is hereby amended to read as follows: 65-2412. (a) A death certificate or stillbirth certificate for each death or stillbirth which occurs in this state shall be filed with the state registrar within three days after such death and prior to removal of the body from the state and shall be registered by the state registrar if such death certificate or stillbirth certificate has been completed and filed in accordance with this section. If the place of death is unknown, a death certificate shall be filed indicating the location where the body was found as the place of death. A certificate shall be filed within three days after such occurrence; if death occurs in a moving conveyance, the death certificate shall record the location where the dead body was first removed from such conveyance as the place of death.

(b) The funeral director or person acting as such who first assumes custody of a dead body shall file the death certificate. Such person shall obtain the personal data from the next of kin or the best qualified person or source available and shall obtain the medical certification of cause of death from the physician last in attendance prior to burial. The death certificate filed with the state registrar shall be the official death record, except that a funeral director licensed pursuant to K.S.A. 65-1714, and amendments thereto, may verify as true and accurate information pertaining to a death on a form provided by the state registrar, and any such form, verified within 21 days of date of death, shall be prima facie evidence of the facts therein stated for purposes of establishing death. The secretary of health and environment shall fix and collect a fee for each form provided a funeral director pursuant to this subsection. The fee shall be collected at the time the form is provided the funeral director and shall be in the same amount as the fee for a certified copy of a death certificate.

(c) When death occurred without medical attendance or when inquiry is required by the laws relating to postmortem examinations, the coroner shall investigate the cause of death and shall complete and sign the medical certification within 24 hours after receipt of the death certificate or as provided in K.S.A. 65-2414, and amendments thereto.

(d) In every instance a certificate shall be filed prior to interment or disposal of the body.

(e) *On and after January 1, 2017, any death certificate, stillbirth certificate or medical certification required to be filed by this section shall*

*be filed through the Kansas electronic death registration system maintained by the Kansas department of health and environment.*

Sec. 2. K.S.A. 2015 Supp. 65-2412 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 28, 2016.

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## CHAPTER 27

### HOUSE BILL No. 2549\*

AN ACT concerning law enforcement; relating to requests for law enforcement assistance from jurisdictions located outside the state of Kansas, but within the United States.

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

Section 1. (a) The chief law enforcement executive for any law enforcement agency, or such executive's designee, may request assistance from a law enforcement agency of another jurisdiction, including a jurisdiction located outside the state of Kansas, but within the United States.

(b) If a law enforcement officer makes an arrest or apprehension outside such officer's jurisdiction, the offender shall be delivered to the first available law enforcement officer who is commissioned in the jurisdiction in which the arrest was made. The officer making the initial arrest or apprehension shall assist in the preparation of any affidavits filed with the complaint or based on other evidence that there is probable cause to believe that both a crime has been committed and the defendant has committed such crime.

(c) For the purposes of liability, all members of any political subdivision or public safety agency responding under operational control of the requesting political subdivision or public safety agency are deemed employees of such responding political subdivision or public safety agency and are subject to the liability and workers' compensation provisions provided to them as employees of their respective political subdivision or public safety agency. Qualified immunity, sovereign immunity, official immunity and the public duty rule shall apply to the provisions of this section as interpreted by the federal and state courts of the responding agency. The Kansas tort claims act, K.S.A. 75-6101 et seq., and amendments thereto, and the Kansas workers compensation act, K.S.A. 44-501 et seq., and amendments thereto, shall be interpreted consistent with the provisions of this section.

(d) Nothing in this section shall be construed to limit the actions of law enforcement officers or agencies conducted pursuant to K.S.A. 19-828, and amendments thereto.



(e) The provisions of article 24 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, and K.S.A. 21-5220 et seq., and amendments thereto, are applicable to any law enforcement officers from jurisdictions located outside the state of Kansas, but within the United States who are acting pursuant to a request made under this section.

(f) For purposes of this section, the term “law enforcement officer” shall have the same meaning as that term is defined by K.S.A. 74-5602, and amendments thereto, or a law enforcement officer who has obtained a similar designation to one described in K.S.A. 74-5602, and amendments thereto, in a jurisdiction outside the state of Kansas, but within the United States.

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

Approved March 28, 2016.

Published in the *Kansas Register* April 7, 2016.

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## CHAPTER 28

### SENATE BILL No. 225°

AN ACT relating to the interstate compact for recognition of emergency personnel licensure.

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

Section 1. This act may be cited as the interstate compact for recognition of emergency medical personnel licensure.

## THE INTERSTATE COMPACT FOR RECOGNITION OF EMERGENCY PERSONNEL LICENSURE

### ARTICLE 1

#### PURPOSE

In order to protect the public through verification of competency and ensure accountability for patient care related activities, all states license emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs and paramedics. This compact is intended to facilitate the day-to-day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This compact recognizes that states have a vested interest in protecting the public’s health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among

the member states will best protect public health and safety. This compact is designed to achieve the following purposes and objectives:

- (a) Increase public access to EMS personnel;
- (b) enhance the states' ability to protect the public's health and safety, especially patient safety;
- (c) encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;
- (d) support licensing of military members who are separating from an active duty tour and their spouses;
- (e) facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action and significant investigatory information;
- (f) promote compliance with the laws governing EMS personnel practice in each member state; and
- (g) invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

## ARTICLE 2 DEFINITIONS

In this compact:

(a) "Advanced Emergency Medical Technician (AEMT)" means: An individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

(b) "Adverse Action" means: Any administrative, civil, equitable or criminal action permitted by a state's laws which may be imposed against licensed EMS personnel by a state EMS authority or state court, including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions and state court judgments enforcing adverse actions by the state EMS authority.

(c) "Alternative program" means: A voluntary, non-disciplinary substance abuse recovery program approved by a state EMS authority.

(d) "Certification" means: The successful verification of entry-level cognitive and psychomotor competency using a reliable, validated and legally defensible examination.

(e) "Commission" means: The national administrative body of which all states that have enacted the compact are members.

(f) "Emergency Medical Technician (EMT)" means: An individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

(g) "Home State" means: A member state where an individual is licensed to practice emergency medical services.

(h) “License” means: The authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or a level between EMT and paramedic.

(i) “Medical Director” means: A physician licensed in a member state who is accountable for the care delivered by EMS personnel.

(j) “Member State” means: A state that has enacted this compact.

(k) “Privilege to Practice” means: An individual’s authority to deliver emergency medical services in remote states as authorized under this compact.

(l) “Paramedic” means: An individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

(m) “Remote State” means: A member state in which an individual is not licensed.

(n) “Restricted” means: The outcome of an adverse action that limits a license or the privilege to practice.

(o) “Rule” means: A written statement by the interstate commission promulgated pursuant to article 12 of this compact that is of general applicability; implements, interprets or prescribes a policy or provision of the compact; or is an organizational, procedural or practice requirement of the commission and has the force and effect of statutory law in a member state and includes the amendment, repeal or suspension of an existing rule.

(p) “Scope of Practice” means: Defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute or court decision, it tends to represent the limits of services an individual may perform.

(q) “Significant Investigatory Information” means:

(1) Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

(2) investigative information that indicates that the individual represents an immediate threat to public health and safety, regardless of whether the individual has been notified and had an opportunity to respond.

(r) “State” means: Any state, commonwealth, district or territory of the United States.

(s) “State EMS authority” means: The board, office or other agency with the legislative mandate to license EMS personnel.

## ARTICLE 3

## HOME STATE LICENSURE

(a) Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

(b) Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

(c) A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

(1) Currently requires the use of the National Registry of Emergency Medical Technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

(2) has a mechanism in place for receiving and investigating complaints about individuals;

(3) notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;

(4) no later than five years after activation of the compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with U.S. C.F.R. § 731.202 and submit documentation of such as promulgated in the rules of the commission; and

(5) complies with the rules of the commission.

## ARTICLE 4

## COMPACT PRIVILEGE TO PRACTICE

(a) Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with article 3.

(b) To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

(1) Be at least 18 years of age;

(2) possess a current unrestricted license in a member state as an EMT, AEMT, paramedic or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

(3) practice under the supervision of a medical director.

(c) An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the commission.

(d) Except as provided in article 4(c), an individual practicing in a

remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action it shall promptly notify the home state and the commission.

(e) If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

(f) If an individual's privilege to practice in any remote state is restricted, suspended or revoked, the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

#### ARTICLE 5

##### CONDITIONS OF PRACTICE IN A REMOTE STATE

An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the commission, and under the following circumstances:

(a) The individual originates a patient transport in a home state and transports the patient to a remote state;

(b) the individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

(c) the individual enters a remote state to provide patient care or transport, or both, within that remote state;

(d) the individual enters a remote state to pick up a patient and provide care and transport to a third member state;

(e) other conditions as determined by rules promulgated by the commission.

#### ARTICLE 6

##### RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Upon a member state's governor's declaration of a state of emergency or disaster that activates the emergency management assistance compact (EMAC), all relevant terms and provisions of EMAC shall apply and to the extent any terms or provisions of this compact conflicts with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

## ARTICLE 7

VETERANS, SERVICE MEMBERS SEPARATING FROM  
ACTIVE DUTY MILITARY, AND THEIR SPOUSES

(a) Member states shall consider a veteran, active military service member, and member of the national guard and reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted NREMT certification at or above the level of the state license being sought, as satisfying the minimum training and examination requirements for such licensure.

(b) Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the national guard and reserves separating from an active duty tour, and their spouses.

(c) All individuals functioning with a privilege to practice under this article remain subject to the adverse actions provisions of article 8.

## ARTICLE 8

## ADVERSE ACTIONS

(a) A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

(b) If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

(1) All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

(2) An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

(c) A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended or revoked to the commission in accordance with the rules of the commission.

(d) A remote state may take adverse action on an individual's privilege to practice within that state.

(e) Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

(f) A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the

home state's law shall control in determining the appropriate adverse action.

(g) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

#### ARTICLE 9

##### ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S EMS AUTHORITY

A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this compact to:

(a) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses or the production of evidence, or both, from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses or evidence, or both, are located; and

(b) issue cease and desist orders to restrict, suspend or revoke an individual's privilege to practice in the state.

#### ARTICLE 10

##### ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE

(a) The compact states hereby create and establish a joint public agency known as the interstate commission for EMS personnel practice.

(1) The commission is a body politic and an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, Voting and Meetings

(1) Each member state shall have and be limited to one delegate. The

responsible official of the state EMS authority or such official's designee shall be the delegate to this compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the governor of the state will determine which entity will be responsible for assigning the delegate.

(2) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(3) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rule-making provisions in article 12.

(5) The commission may convene in a closed, non-public meeting if the commission must discuss:

(A) Non-compliance of a member state with its obligations under the compact;

(B) the employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) current, threatened or reasonably anticipated litigation;

(D) negotiation of contracts for the purchase or sale of goods, services or real estate;

(E) accusing any person of a crime or formally censuring any person;

(F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) disclosure of investigatory records compiled for law enforcement purposes;

(I) disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(J) matters specifically exempted from disclosure by federal or member state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to this



provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(c) The commission shall, by a majority vote of the delegates, prescribe bylaws or rules, or both, to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including, but not limited to:

- (1) Establishing the fiscal year of the commission;
- (2) providing reasonable standards and procedures:
  - (A) For the establishment and meetings of other committees; and
  - (B) governing any general or specific delegation of any authority or function of the commission;
- (3) providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;
- (4) establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the commission;
- (5) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the commission;
- (6) promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;
- (7) providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment or reserving of all of its debts and obligations.
- (8) The commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any.

(9) The commission shall maintain its financial records in accordance with the bylaws.

(10) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(d) The commission shall have the following powers:

(1) The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;

(2) to bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;

(3) to purchase and maintain insurance and bonds;

(4) to borrow, accept or contract for services of personnel, including, but not limited to, employees of a member state;

(5) to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(6) to accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

(7) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall strive to avoid any appearance of impropriety;

(8) to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal, or mixed;

(9) to establish a budget and make expenditures;

(10) to borrow money;

(11) to appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(12) to provide and receive information from, and to cooperate with, law enforcement agencies;

(13) to adopt and use an official seal; and

(14) to perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of EMS personnel licensure and practice.

(e) Financing of the commission

(1) The commission shall pay, or provide for the payment of, the

reasonable expenses of its establishment, organization and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.

(3) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(f) Qualified Immunity, Defense and Indemnification

(1) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability, or both, for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining such person's own counsel; and provided further, that the actual or alleged act,

error or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

## ARTICLE 11

### COORDINATED DATABASE

(a) The commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action and significant investigatory information on all licensed individuals in member states.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this compact is applicable as required by the rules of the commission, including:

- (1) Identifying information;
- (2) Licensure data;
- (3) Significant investigatory information;
- (4) Adverse actions against an individual's license;
- (5) An indicator that an individual's privilege to practice is restricted, suspended or revoked;
- (6) Non-confidential information related to alternative program participation;
- (7) Any denial of application for licensure, and the reason for such denial; and
- (8) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(c) The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

(d) Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

(e) Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

ARTICLE 12  
RULEMAKING

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any member state.

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(d) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission; and

(2) on the website of each member state EMS authority or the publication in which each state would otherwise publish proposed rules.

(e) The notice of proposed rulemaking shall include:

(1) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(f) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(g) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least 25 persons;

(2) a governmental subdivision or agency; or

(3) an association having at least 25 members.

(h) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the commission from making a transcript or recording of the hearing if it so chooses.

(4) Nothing in this article shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this article.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(j) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(k) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(l) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this article shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety or welfare;

(2) prevent a loss of commission or member state funds;

(3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) protect public health and safety.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without fur-

ther action. If the revision is challenged, the revision may not take effect without the approval of the commission.

### ARTICLE 13

#### OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

##### (a) Oversight

(1) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the commission.

(3) The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

##### (b) Default, Technical Assistance, and Termination

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(A) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and any other action, if any, to be taken by the commission; and

(B) provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(4) A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission shall not bear any costs related to a state that is

found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the U.S. district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

(c) Dispute Resolution

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(d) Enforcement

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

#### ARTICLE 14

##### DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(b) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.



(c) Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

(e) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

## ARTICLE 15

### CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

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

Approved March 31, 2016.

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## CHAPTER 29

### SENATE BILL No. 349\*

AN ACT concerning motor vehicles; relating to commercial driver's licenses; hazardous materials endorsement exemption.

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

Section 1. Any person driving under a commercial class A license shall not be required to obtain a hazardous materials endorsement pursuant to 49 C.F.R. § 383 if the person is:

(a) Acting within the scope of the license holder's employment as an employee of a custom harvester operation; and

(b) is operating a service vehicle that is: (1) Transporting diesel in a quantity of 3,785 liters, 1,000 gallons or less; and (2) clearly marked with a "flammable" or "combustible" placard, as appropriate.

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

Approved March 31, 2016.

Published in the *Kansas Register* April 21, 2016.

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CHAPTER 30

SENATE BILL No. 352

AN ACT concerning real estate; relating to licensing requirements for nonresidents; amending K.S.A. 58-3040 and repealing the existing section.

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

Section 1. K.S.A. 58-3040 is hereby amended to read as follows: 58-3040. (a) A nonresident of this state may be granted a broker's license if:

(1) The nonresident is licensed as a broker in the nonresident's state of residence; and

(2) such nonresident meets all requirements imposed by this act on Kansas residents for licensure as a broker, ~~except that the commission may waive the education provided by subsection (b) of K.S.A. 58-3046a and amendments thereto, the examination provided by K.S.A. 58-3039 and amendments thereto and the experience provided by subsection (c) of K.S.A. 58-3039 and amendments thereto for a nonresident who, in the judgment of the commission, has received equivalent education, has passed an equivalent examination and has obtained equivalent experience as provided by subsection (e).~~

(b) A nonresident broker ~~employed by or associated with a broker licensed pursuant to this act~~ may be granted a ~~broker's salesperson's~~ license ~~under such broker~~, if:

(1) ~~The broker nonresident is licensed as a broker in the broker's nonresident's state of residence; and~~

(2) such ~~broker nonresident~~ meets all requirements imposed by this act on Kansas residents for licensure as a broker, ~~except that the commission may waive the education provided by subsection (b) of K.S.A. 58-3046a and amendments thereto, the examination provided by K.S.A. 58-3039 and amendments thereto and the experience provided by subsection (c) of K.S.A. 58-3039 and amendments thereto if, in the judgment of the commission, the broker has received equivalent education, has passed an equivalent examination and has obtained equivalent experience except for the requirements of K.S.A. 58-3039(d)(1) or (e), and amendments thereto, and the nonresident does not qualify for a waiver pursuant to subsection (e); and~~

(3) *the nonresident submits the certification described in K.S.A. 58-3039(h), and amendments thereto.*

(c) A nonresident salesperson employed by or associated with a broker licensed pursuant to this act may be granted a salesperson's license under such broker, if:

(1) The salesperson is licensed as a salesperson in the salesperson's state of residence; and

(2) such salesperson meets all requirements imposed by this act on Kansas residents for licensure as a salesperson, ~~except that the commission may waive the education provided by subsection (a) of K.S.A. 58-3046a and amendments thereto and the examination provided by K.S.A. 58-3039 and amendments thereto if, in the judgment of the commission, the salesperson has received equivalent education and has passed an equivalent examination as provided by subsection (f).~~

(d) The commission may enter into agreements with other jurisdictions as to the issuance of reciprocal licenses.

(e) The commission may waive the education provided by ~~subsection (b) of K.S.A. 58-3046a(b)~~, and amendments thereto, the examination provided by K.S.A. 58-3039, and amendments thereto, and the experience provided by ~~subsection (e) of K.S.A. 58-3039(d)(1) or (e)~~, and amendments thereto, and issue an original broker's license to a *nonresident or to a* Kansas resident who holds a broker's license issued by another jurisdiction if, in the judgment of the commission, the applicant received equivalent education, passed an equivalent examination and obtained equivalent experience. The applicant shall meet all other requirements imposed by this act.

(f) The commission may waive the education provided by ~~subsection (a) of K.S.A. 58-3046a(a)~~, and amendments thereto, and the examination provided by K.S.A. 58-3039, and amendments thereto, and issue an original salesperson's license to a *nonresident or to a* Kansas resident who holds a ~~salesperson's~~ license issued by another jurisdiction if, in the judgment of the commission, the applicant received equivalent education and passed an equivalent examination. The applicant shall meet all other requirements imposed by this act.

~~(g) Prior to the issuance of a license to a nonresident, the applicant shall file with the commission a designation in writing that appoints the director of the commission as the applicant's agent, upon whom all judicial and other process or legal notices directed to the applicant may be served in the event such applicant becomes a licensee. Any process or legal notices to a nonresident licensee shall be directed to the director, accompanied by a fee of \$3, and, in the case of a summons, shall require the nonresident licensee to answer within 40 days from the date of service on such licensee. A summons and a certified copy of the petition shall be forthwith forwarded by the clerk of the court to the director, who shall immediately forward a copy of the summons and the certified copy of the~~

~~petition to the nonresident licensee. Thereafter, the director shall make return of the summons to the court from which it was issued, showing the date of its receipt by the director, the date of forwarding and the name and address of the person to whom the director forwarded a copy. Such return shall have the same force and effect as a return made by the sheriff on process directed to the sheriff.~~

~~(h)~~ Prior to the issuance of a license to a nonresident, the applicant must agree in writing to abide by all provisions of this act with respect to the applicant's real estate activities within the state and submit to the jurisdiction of the commission and the state in all matters relating thereto. Such agreement shall be filed with the commission and shall remain in force for so long as the nonresident is licensed by this state and thereafter with respect to acts or omissions committed while licensed as a nonresident.

~~(h)~~ (h) A nonresident licensed under this section shall be entitled to the same rights and subject to the same obligations as are provided in this act for Kansas residents, except that revocation or suspension of a nonresident's license in the nonresident's state of residence shall automatically cause the same revocation or suspension of such nonresident's license issued under this act. No hearing shall be granted to a nonresident licensee where license is subject to such automatic revocation or suspension except for the purpose of establishing the fact of revocation or suspension of the nonresident's license by the nonresident's state of residence.

Sec. 2. K.S.A. 58-3040 is hereby repealed.

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

Approved March 31, 2016.

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## CHAPTER 31

### SENATE BILL No. 362

AN ACT concerning the criminal justice information system; relating to electronically stored information; hearsay exception for official record, authentication of record; amending K.S.A. 60-465 and K.S.A. 2015 Supp. 22-4701, 22-4705 and 60-460 and repealing the existing sections.

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

Section 1. K.S.A. 2015 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 in-

formation system created pursuant to K.S.A. 2015 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, 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.

(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 *and any electronically stored information from a state agency or municipality.*

(e) *“Electronically stored information” means any documents or writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations stored in any medium from which*

*information can be obtained either directly or, if necessary, after translation from a state agency or municipality into a reasonably useable form.*

(f) “Director” means the director of the Kansas bureau of investigation.

~~(f)~~(g) “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)~~(h) “Reportable event” means an event specified or provided for in K.S.A. 22-4705, and amendments thereto.

Sec. 2. K.S.A. 2015 Supp. 22-4705 is hereby amended to read as follows: 22-4705. (a) The following events are reportable events under this act:

(1) Issuance of an arrest warrant;

(2) an arrest;

(3) release of a person after arrest without the filing of a charge;

(4) the filing of a charge;

(5) dismissal or quashing of an indictment or criminal information;

(6) an acquittal, conviction or other disposition at or following trial, including a finding of probation before judgment;

(7) imposition of a sentence;

(8) commitment to a correctional facility, whether state or locally operated;

(9) release from detention or confinement;

(10) an escape from confinement;

(11) a pardon, reprieve, commutation of sentence or other change in a sentence, including a change ordered by a court;

(12) judgment of an appellate court that modifies or reverses the lower court decision;

(13) order of a court in a collateral proceeding that affects a person’s conviction, sentence or confinement, including any expungement or annulment of arrests or convictions pursuant to state statute; and

(14) any other event arising out of or occurring during the course of criminal justice proceedings declared to be reportable by rule or regulation of the director.

(b) There is hereby established a criminal justice information system central repository for the collection, storage, and dissemination of criminal history record information *and any electronically stored information from a state agency or municipality*. The central repository shall be op-

erated by the Kansas bureau of investigation under the administrative control of the director.

(c) *The Kansas bureau of investigation may enter into an agreement with any state agency or municipality to allow for the sharing and authentication of any electronically stored information held by the state agency or municipality, in whole or in part, to the central repository.*

(d) Except as otherwise provided by this subsection, every criminal justice agency shall report criminal history record information, whether collected manually or by means of an automated system, to the central repository, in accordance with rules and regulations adopted pursuant to this act. A criminal justice agency shall report to the central repository those reportable events involving a violation of a county resolution or city ordinance only when required by rules and regulations adopted by the director.

~~(d)~~(e) Reporting methods may include:

(1) Submittal of criminal history record information by a criminal justice agency directly to the central repository;

(2) if the information can readily be collected and reported through the court system, submittal to the central repository by the administrative office of the courts; ~~or~~

(3) if the information can readily be collected and reported through criminal justice agencies that are part of a geographically based information system, submittal to the central repository by the agencies; *or*

(4) *any transfer of electronically stored information by a state agency or municipality to the central repository.*

~~(e)~~(f) Nothing in this section shall prevent a criminal justice agency from maintaining more detailed information than is required to be reported to the central repository. However, the dissemination of that criminal history record information is governed by the provisions of this act.

~~(f)~~(g) The director may determine, by rule and regulation, the reportable events to be reported by each criminal justice agency, in order to avoid duplication in reporting.

~~(g)~~(h) Except as otherwise provided in this subsection, no court or criminal justice agency may assess fees or charges against the central repository for providing criminal history record information created prior to, on or after July 1, 2011. A court or criminal justice agency may assess a fee or charge against the central repository for providing criminal history record information if such court or criminal justice agency has previously provided such criminal history record information as required by law.

Sec. 3. K.S.A. 2015 Supp. 60-460 is hereby amended to read as follows: 60-460. Evidence of a statement which is made other than by a witness while testifying at the hearing, offered to prove the truth of the matter stated, is hearsay evidence and inadmissible except:

(a) *Previous statements of persons present.* A statement previously

made by a person who is present at the hearing and available for cross-examination with respect to the statement and its subject matter, provided the statement would be admissible if made by declarant while testifying as a witness.

(b) *Affidavits.* Affidavits, to the extent admissible by the statutes of this state.

(c) *Depositions and prior testimony.* Subject to the same limitations and objections as though the declarant were testifying in person: (1) Testimony in the form of a deposition taken in compliance with the law of this state for use as testimony in the trial of the action in which offered; or (2) if the judge finds that the declarant is unavailable as a witness at the hearing, testimony given as a witness in another action or in a preliminary hearing or former trial in the same action, or in a deposition taken in compliance with law for use as testimony in the trial of another action, when: (A) The testimony is offered against a party who offered it in the party's own behalf on the former occasion or against the successor in interest of such party; or (B) the issue is such that the adverse party on the former occasion had the right and opportunity for cross-examination with an interest and motive similar to that which the adverse party has in the action in which the testimony is offered, but the provisions of this subsection (c) shall not apply in criminal actions if it denies to the accused the right to meet the witness face to face.

(d) *Contemporaneous statements and statements admissible on ground of necessity generally.* A statement which the judge finds was made: (1) While the declarant was perceiving the event or condition which the statement narrates, describes or explains; (2) while the declarant was under the stress of a nervous excitement caused by such perception; or (3) if the declarant is unavailable as a witness, by the declarant at a time when the matter had been recently perceived by the declarant and while the declarant's recollection was clear and was made in good faith prior to the commencement of the action and with no incentive to falsify or to distort.

(e) *Dying declarations.* A statement by a person unavailable as a witness because of the person's death if the judge finds that it was made: (1) Voluntarily and in good faith; and (2) while the declarant was conscious of the declarant's impending death and believed that there was no hope of recovery.

(f) *Confessions.* In a criminal proceeding as against the accused, a previous statement by the accused relative to the offense charged, but only if the judge finds that the accused: (1) When making the statement was conscious and was capable of understanding what the accused said and did; and (2) was not induced to make the statement: (A) Under compulsion or by infliction or threats of infliction of suffering upon the accused or another, or by prolonged interrogation under such circumstances as to render the statement involuntary; or (B) by threats or promises



concerning action to be taken by a public official with reference to the crime, likely to cause the accused to make such a statement falsely, and made by a person whom the accused reasonably believed to have the power or authority to execute the same.

(g) *Admissions by parties.* As against a party, a statement by the person who is the party to the action in the person's individual or a representative capacity and, if the latter, who was acting in such representative capacity in making the statement.

(h) *Authorized and adoptive admissions.* As against a party, a statement: (1) By a person authorized by the party to make a statement or statements for the party concerning the subject of the statement; or (2) of which the party with knowledge of the content thereof has, by words or other conduct, manifested the party's adoption or belief in its truth.

(i) *Vicarious admissions.* As against a party, a statement which would be admissible if made by the declarant at the hearing if: (1) The statement concerned a matter within the scope of an agency or employment of the declarant for the party and was made before the termination of such relationship; (2) the party and the declarant were participating in a plan to commit a crime or a civil wrong and the statement was relevant to the plan or its subject matter and was made while the plan was in existence and before its complete execution or other termination; or (3) one of the issues between the party and the proponent of the evidence of the statement is a legal liability of the declarant, and the statement tends to establish that liability.

(j) *Declarations against interest.* Subject to the limitations of *the exception in subsection (f)*, a statement which the judge finds was at the time of the assertion so far contrary to the declarant's pecuniary or proprietary interest or so far subjected the declarant to civil or criminal liability or so far rendered invalid a claim by the declarant against another or created such risk of making the declarant an object of hatred, ridicule or social disapproval in the community that a reasonable person in the declarant's position would not have made the statement unless the person believed it to be true.

(k) *Voter's statements.* A statement by a voter concerning the voter's qualifications to vote or the fact or content of the voter's vote.

(l) *Statements of physical or mental condition of declarant.* Unless the judge finds it was made in bad faith, a statement of the declarant's: (1) Then existing state of mind, emotion or physical sensation, including statements of intent, plan, motive, design, mental feeling, pain and bodily health, but not including memory or belief to prove the fact remembered or believed, when such a mental or physical condition is in issue or is relevant to prove or explain acts or conduct of the declarant; or (2) previous symptoms, pain or physical sensation, made to a physician consulted for treatment or for diagnosis with a view to treatment, and relevant to an issue of declarant's bodily condition.

(m) *Business entries and the like.* Writings offered as memoranda or records of acts, conditions or events to prove the facts stated therein, if the judge finds that: (1) They were made in the regular course of a business at or about the time of the act, condition or event recorded; and (2) the sources of information from which made and the method and circumstances of their preparation were such as to indicate their trustworthiness.

If the procedure specified by ~~subsection (b) of K.S.A. 60-245a(b)~~, and amendments thereto, for providing business records has been complied with and no party has required the personal attendance of a custodian of the records or the production of the original records, the affidavit or declaration of the custodian shall be prima facie evidence that the records satisfy the requirements of this subsection.

(n) *Absence of entry in business records.* Evidence of the absence of a memorandum or record from the memoranda or records of a business of an asserted act, event or condition, to prove the nonoccurrence of the act or event, or the nonexistence of the condition, if the judge finds that it was the regular course of that business to make such memoranda of all such acts, events or conditions at the time thereof or within a reasonable time thereafter and to preserve them.

(o) *Content of official record.* Subject to K.S.A. 60-461, and amendments thereto: (1) If meeting the requirements of authentication under K.S.A. 60-465, and amendments thereto, to prove the content of the record, a writing purporting to be a copy of an official record or of an entry therein; or (2) to prove the absence of a record in a specified office, a writing made by the official custodian of the official records of the office, reciting diligent search and failure to find such record; or (3) to prove the absence of a record in the criminal justice information system central repository maintained by the Kansas bureau of investigation pursuant to K.S.A. 22-4705, and amendments thereto, a writing made by a person purporting to be an official custodian of the records of the Kansas bureau of investigation, reciting diligent search of criminal history record information and electronically stored information, as defined in K.S.A. 22-4701, and amendments thereto, and failure to find such record.

(p) *Certificate of marriage.* Subject to K.S.A. 60-461, and amendments thereto, certificates that the maker thereof performed marriage ceremonies, to prove the truth of the recitals thereof, if the judge finds that: (1) The maker of the certificates, at the time and place certified as the times and places of the marriages, was authorized by law to perform marriage ceremonies; and (2) the certificate was issued at that time or within a reasonable time thereafter.

(q) *Records of documents affecting an interest in property.* Subject to K.S.A. 60-461, and amendments thereto, the official record of a document purporting to establish or affect an interest in property, to prove the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the

judge finds that: (1) The record is in fact a record of an office of a state or nation or of any governmental subdivision thereof; and (2) an applicable statute authorized such a document to be recorded in that office.

(r) *Judgment of previous conviction.* Evidence of a final judgment adjudging a person guilty of a felony, to prove any fact essential to sustain the judgment.

(s) *Judgment against persons entitled to indemnity.* To prove the wrong of the adverse party and the amount of damages sustained by the judgment creditor, evidence of a final judgment if offered by a judgment debtor in an action in which the debtor seeks to recover partial or total indemnity or exoneration for money paid or liability incurred by the debtor because of the judgment, provided the judge finds that the judgment was rendered for damages sustained by the judgment creditor as a result of the wrong of the adverse party to the present action.

(t) *Judgment determining public interest in land.* To prove any fact which was essential to the judgment, evidence of a final judgment determining the interest or lack of interest of the public or of a state or nation or governmental division thereof in land, if offered by a party in an action in which any such fact or such interest or lack of interest is a material matter.

(u) *Statement concerning one's own family history.* A statement of a matter concerning a declarant's own birth, marriage, divorce, legitimacy, relationship by blood or marriage, race-ancestry or other similar fact of the declarant's family history, even though the declarant had no means of acquiring personal knowledge of the matter declared, if the judge finds that the declarant is unavailable.

(v) *Statement concerning family history of another.* A statement concerning the birth, marriage, divorce, death, legitimacy, race-ancestry, relationship by blood or marriage or other similar fact of the family history of a person other than the declarant if the judge finds that the declarant: (1) Was related to the other by blood or marriage, or was otherwise so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared, and made the statement as upon information received from the other or from a person related by blood or marriage to the other or as upon repute in the other's family; and (2) is unavailable as a witness.

(w) *Statement concerning family history based on statement of another declarant.* A statement of a declarant that a statement admissible under the exceptions in subsections (u) or (v) was made by another declarant, offered as tending to prove the truth of the matter declared by both declarants, if the judge finds that both declarants are unavailable as witnesses.

(x) *Reputation in family concerning family history.* Evidence of reputation among members of a family, if the reputation concerns the birth,

marriage, divorce, death, legitimacy, race-ancestry or other fact of the family history of a member of the family by blood or marriage.

(y) *Reputation—boundaries, general history, family history.* Evidence of reputation in a community as tending to prove the truth of the matter reputed, if the reputation concerns: (1) Boundaries of or customs affecting, land in the community and the judge finds that the reputation, if any, arose before controversy;; (2) an event of general history of the community or of the state or nation of which the community is a part and the judge finds that the event was of importance to the community; or (3) the birth, marriage, divorce, death, legitimacy, relationship by blood or marriage, or race-ancestry of a person resident in the community at the time of the reputation, or some other similar fact of the person's family history or of the person's personal status or condition which the judge finds likely to have been the subject of a reliable reputation in that community.

(z) *Reputation as to character.* If a trait of a person's character at a specified time is material, evidence of the person's reputation with reference thereto at a relevant time in the community in which the person then resided or in a group with which the person then habitually associated, to prove the truth of the matter reputed.

(aa) *Recitals in documents affecting property.* Evidence of a statement relevant to a material matter, contained in a deed of conveyance or a will or other document purporting to affect an interest in property, offered as tending to prove the truth of the matter stated, if the judge finds that: (1) The matter stated would be relevant upon an issue as to an interest in the property; and (2) the dealings with the property since the statement was made have not been inconsistent with the truth of the statement.

(bb) *Commercial lists and the like.* Evidence of statements of matters of interest to persons engaged in an occupation contained in a list, register, periodical or other published compilation, to prove the truth of any relevant matter so stated, if the judge finds that the compilation is published for use by persons engaged in that occupation and is generally used and relied upon by them.

(cc) *Learned treatises.* A published treatise, periodical or pamphlet on a subject of history, science or art, to prove the truth of a matter stated therein, if the judge takes judicial notice, or a witness expert in the subject testifies, that the treatise, periodical or pamphlet is a reliable authority in the subject.

(dd) *Actions involving children.* In a criminal proceeding or a proceeding pursuant to the revised Kansas juvenile justice code or in a proceeding to determine if a child is a child in need of care under the revised Kansas code for care of children, a statement made by a child, to prove the crime or that a child is a juvenile offender or a child in need of care, if:

(1) The child is alleged to be a victim of the crime or offense or a child in need of care; and

(2) the trial judge finds, after a hearing on the matter, that the child is disqualified or unavailable as a witness, the statement is apparently reliable and the child was not induced to make the statement falsely by use of threats or promises.

If a statement is admitted pursuant to this subsection in a trial to a jury, the trial judge shall instruct the jury that it is for the jury to determine the weight and credit to be given the statement and that, in making the determination, it shall consider the age and maturity of the child, the nature of the statement, the circumstances under which the statement was made, any possible threats or promises that might have been made to the child to obtain the statement and any other relevant factor.

(ee) *Certified motor vehicle certificate of title history.* Subject to K.S.A. 60-461, and amendments thereto, a certified motor vehicle certificate of title history prepared by the division of vehicles of the Kansas department of revenue.

Sec. 4. K.S.A. 60-465 is hereby amended to read as follows: 60-465. A writing purporting to be a copy of an official record or of an entry therein, meets the requirements of authentication if the judge finds that the writing purports to be published by authority of the nation, state or subdivision thereof, in which the record is kept or evidence has been introduced sufficient to warrant a finding that the writing is a correct copy of the record or entry. Extrinsic evidence of authenticity as a condition precedent to admissibility is not required if: (1) The office in which the record is kept is within this state and the writing is attested as a correct copy of the record or entry by a person purporting to be an officer, or a deputy of an officer, having the legal custody of the record; (2) *the office in which the record is kept is within this state and the record is attested by a person purporting to be an official custodian of the records of the Kansas bureau of investigation as a correct copy of criminal history record information or electronically stored information, as defined in K.S.A. 22-4701, and amendments thereto, accessed through the criminal justice information system central repository maintained by the Kansas bureau of investigation pursuant to K.S.A. 22-4705, and amendments thereto;* (3) the office in which the record is kept is within the United States or territory or insular possession subject to the dominion of the United States and the writing is attested to as required in ~~clause~~ *paragraph* (1) and authenticated by seal of the office having custody or, if that office has no seal, by a public officer having a seal and having official duties in the district or political subdivision in which the records are kept who certifies under seal that such officer has custody; or ~~(3)~~ (4) the office in which the record is kept is in a foreign state or country, the writing is attested as required in ~~clause~~ *paragraph* (1) and is accompanied by a certificate that

such officer has the custody of the record which certificate may be made by a secretary of an embassy or legation, consul general, consul, vice-consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of that office.

Sec. 5. K.S.A. 60-465 and K.S.A. 2015 Supp. 22-4701, 22-4705 and 60-460 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 31, 2016.

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## CHAPTER 32

### SENATE BILL No. 392

AN ACT concerning criminal procedure; relating to the uniform mandatory disposition of detainer act; notice; amending K.S.A. 22-4302, 22-4306 and 22-4308 and K.S.A. 2015 Supp. 22-4301, 22-4303 and 22-4304 and repealing the existing sections; also repealing K.S.A. 22-4307.

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

Section 1. K.S.A. 2015 Supp. 22-4301 is hereby amended to read as follows: 22-4301. (a) ~~Any person who is imprisoned in a penal or correctional institution of this state~~ *inmate in the custody of the secretary of corrections* may request final disposition of any untried indictment, information, motion to revoke probation or complaint pending against such person in this state. The request shall be in writing, addressed ~~and delivered~~ *and delivered* to the court in which the indictment, information, motion to revoke probation or complaint is pending ~~and, to the county attorney charged with the duty of prosecuting it, and to the secretary of corrections. Such request shall set forth the place of imprisonment.~~

(b) ~~The warden, superintendent or other official having custody of prisoners~~ *secretary* shall promptly inform each ~~prisoner~~ *inmate* in writing of the source and nature of any untried indictment, information, motion to revoke probation or complaint against such ~~prisoner~~ *inmate* of which the ~~warden, superintendent or other official~~ *secretary* has knowledge or notice, and of such ~~prisoner's inmate's~~ *inmate's* right to make a request for final disposition thereof.

(c) Failure of the ~~warden, superintendent or other official~~ *secretary* to inform a ~~prisoner~~ *inmate*, as required by this section, within one year after a detainer has been filed at the institution shall entitle such ~~prisoner~~ *inmate* to a final dismissal of the indictment, information, motion to revoke probation or complaint with prejudice.

Sec. 2. K.S.A. 22-4302 is hereby amended to read as follows: 22-4302. ~~The request shall be delivered to the warden, superintendent or other officials having custody of the prisoner, who shall forthwith~~ Upon receipt of a request made pursuant to K.S.A. 22-4301, and amendments thereto, the secretary of corrections shall promptly:

(a) Certify the term of commitment under which the ~~prisoner inmate~~ is being held, the time already served on the sentence, the time remaining to be served, the good time earned, the time of parole eligibility of the ~~prisoner inmate~~, and any decisions of the ~~state board of probation and parole prisoner review board~~ relating to the ~~prisoner inmate~~;

(b) for crimes committed on or after July 1, 1993, certify the length of time served on the prison portion of the sentence, any good time earned and the projected release date for the commencement of the postrelease supervision term; and

(c) send by registered or certified mail, return receipt requested, one copy of the request and certificate to the court and one copy to the county attorney to whom it is addressed.

Sec. 3. K.S.A. 2015 Supp. 22-4303 is hereby amended to read as follows: 22-4303. ~~Within 180 days after~~ (a) Detainers shall be disposed of in the order in which they are placed with the secretary of corrections, except in the case of an inmate with detainers from multiple jurisdictions, the district or county attorneys in such jurisdictions may agree to a different order of disposition. The secretary of corrections shall allow transportation of the inmate for the purpose of disposing of detainers.

(b) (1) Following the receipt of the ~~request and~~ certificate by the court and county attorney from the secretary of corrections, the indictment, information or complaint shall be brought to trial, or the motion to revoke probation shall be brought for a hearing:

(A) If the inmate has one detainer, within 180 days;

(B) if the inmate has detainers from multiple jurisdictions, the first detainer shall be brought within 180 days and each subsequent detainer shall be brought within 180 days after return of the inmate to the secretary or transportation of the inmate to the jurisdiction following disposition of a previous detainer; or

(C) within such additional time as the court for good cause shown in open court may grant, ~~the prisoner or such prisoner's counsel being present, the indictment, information or complaint shall be brought to trial or the motion to revoke probation shall be brought for a hearing, but~~

(2) ~~The parties may stipulate for a continuance or a continuance may be granted on notice to the attorney of record and opportunity for such prisoner to be heard~~ The requirements of paragraph (1) shall not apply to any time during which a continuance or delay has been requested or agreed to by the inmate or the inmate's attorney.

(3) The requirements of paragraph (1) shall not apply to any time

during which a motion to determine competency of the inmate is pending or any time during which an inmate is determined to be incompetent to stand trial.

(4) If, after ~~such a request~~ receipt of such certificate, the indictment, information or complaint is not brought to trial within ~~that period~~ the time period specified in this subsection, or the motion to revoke probation is not brought for a hearing within that period, no court of this state shall any longer have jurisdiction thereof, nor shall the untried indictment, information, motion to revoke probation or complaint be of any further force or effect, and the court shall dismiss it with prejudice.

Sec. 4. K.S.A. 2015 Supp. 22-4304 is hereby amended to read as follows: 22-4304. Escape from custody of any ~~prisoner~~ inmate subsequent to such ~~prisoner's~~ inmate's execution of a request for final disposition of an untried indictment, information, motion to revoke probation or complaint voids such request.

Sec. 5. K.S.A. 22-4306 is hereby amended to read as follows: 22-4306. The ~~warden, superintendent or other official having custody of prisoners~~ secretary shall arrange for all ~~prisoners~~ inmates to be informed in writing of the provisions of this article, and for a record thereof to be placed in the ~~prisoner's~~ inmate's file.

Sec. 6. K.S.A. 22-4308 is hereby amended to read as follows: 22-4308. This article may be cited as the ~~uniform~~ mandatory disposition of detainee act.

Sec. 7. K.S.A. 22-4302, 22-4306, 22-4307 and 22-4308 and K.S.A. 2015 Supp. 22-4301, 22-4303 and 22-4304 are hereby repealed.

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

Approved March 31, 2016.

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## CHAPTER 33

### SENATE BILL No. 438\*

AN ACT concerning insurance; relating to property and casualty insurance; policy renewals.

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

Section 1. (a) A policy of insurance for property and casualty coverage will be considered renewed by: (1) The issuance and delivery of a policy by the current insurer or by an insurer within the same group of affiliated insurers replacing the existing policy at the end of the policy period or term with no gap in coverage; or (2) the issuance and delivery of a certificate or notice extending the term of the policy beyond its policy period or term.



(b) As used in this section, the term “group affiliated insurers” means two or more insurance companies that are under substantially the same management or financial control.

(c) When a policy of insurance is renewed by an insurer within the same group of affiliated insurers, notice of the change of the policy to the affiliated company shall be provided to the insured at the last known address and made available to the agent of record on or before 30 days before the end of the term or period of the existing policy of insurance. Such notice may be satisfied by delivery of the new policy to the insured.

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

Approved March 31, 2016.

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## CHAPTER 34

### SENATE BILL No. 459

AN ACT concerning the state fire marshal; relating to certain license fees; amending K.S.A. 2015 Supp. 31-133a, 31-503 and 31-504 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 31-133a is hereby amended to read as follows: 31-133a. (a) No business shall inspect, install or service portable fire extinguishers or automatic fire extinguishers for commercial cooking equipment without first being certified by the state fire marshal.

(b) (1) The state fire marshal shall adopt rules and regulations as provided in K.S.A. 31-134, and amendments thereto, establishing standards for inspection, installation, servicing and testing procedures and minimum insurance requirements of businesses inspecting, installing or servicing portable fire extinguishers or automatic fire extinguishers for commercial cooking equipment. The rules and regulations shall ~~also~~ provide for qualifications and training of any person or persons designated by such business as the person or persons upon whose qualifications and training the certification of the business is based and, ~~on and after January 1, 1991,~~ shall require submission of proof, satisfactory to the state fire marshal, that such qualifications and training have been met.

(2) The rules and regulations shall further provide for annual certification of such businesses ~~for a fee of not less than \$25 or more than \$200. No fee shall be charged~~ for each certification, ~~but~~. No fee shall be charged for any person who is an officer or employee of the state or political or taxing subdivision ~~thereof~~ when that person is acting on behalf of the state or political or taxing subdivision. If the person or persons

upon whose qualifications and training the certification of the business is based leave such business, the certification of that business is void.

~~(3) The state fire marshal shall remit all moneys received for fees 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. The state treasurer shall credit 10% of each such deposit to the state general fund and shall credit the remainder of each such deposit to the fire marshal fee fund.~~

(c) Inspection or service of any portable fire extinguisher or automatic fire extinguisher for commercial cooking equipment by any business who is not certified by the state fire marshal as required by this section shall constitute a deceptive act or practice under the Kansas consumer protection act and shall be subject to the remedies and penalties provided by such act.

(d) As used in this section:

(1) “Automatic fire extinguisher for commercial cooking equipment” means any automatic fire extinguisher mounted directly above or in the ventilation canopy of commercial cooking equipment.

(2) “Business” means any person who inspects, services or installs portable fire extinguishers or automatic fire extinguishers for commercial cooking equipment but does not include: (A) Any person or authorized agent of the person who installs a portable fire extinguisher for protection of the person’s own property or business; or (B) any individual acting as a representative or employee of a certified business.

Sec. 2. K.S.A. 2015 Supp. 31-503 is hereby amended to read as follows: 31-503. (a) Any person who intends to sell, offer for sale, possess with intent to sell, any consumer fireworks, display fireworks or articles pyrotechnic or discharge, use, display fireworks or articles pyrotechnic shall first obtain the appropriate license from the state fire marshal. This shall not include seasonal retailers.

(b) The types of license shall be as follows:

- (1) Manufacturer;
- (2) hobbyist manufacturer;
- (3) distributor;
- (4) display fireworks operator; and
- (5) proximate pyrotechnic operator.

(c) Before a license holder may operate, such license holder must satisfy the requirements of this act and regulations adopted by the state fire marshal.

(d) The license holder shall be at least 21 years of age upon applying for a license.

(e) Licenses shall not be transferable.

(f) ~~Except as otherwise provided in this section,~~ The state fire marshal

shall ~~have the authority to fix, not charge and or collect fees as follows for licensure. The licenses shall be valid for the following period of time:~~

(1) A manufacturer license shall be valid for a period of one year. ~~The annual license fee shall not be less than \$400 or more than \$600.~~ A holder of a manufacturer license is not required to have any additional licenses in order to manufacture and sell any fireworks defined by this act.

(2) A hobbyist manufacturer license shall be valid for a period of four years. ~~The license fee shall not be less than \$50 or more than \$80.~~

(3) A distributor license shall be valid for a period of one year. ~~The annual fee shall not be less than \$300 or more than \$500.~~

(4) A display fireworks operator license shall be valid for a period of four years. ~~The license fee shall not be less than \$40 or more than \$80.~~

(5) A proximate pyrotechnics operator license shall be valid for a period of four years. ~~The license fee shall not be less than \$40 or more than \$80.~~

(g) A permit to conduct a fireworks display shall be obtained by the sponsor or operator of a fireworks display from and approved by the city or county where the fireworks display is to be discharged.

(h) No fee shall be charged for a license or permit under this section for any person who is an officer or employee of the state or any political or taxing subdivision of the state when that person is acting on behalf of the state or political or taxing subdivision.

Sec. 3. K.S.A. 2015 Supp. 31-504 is hereby amended to read as follows: 31-504. (a) The owner of any display fireworks storage facility shall obtain a storage site permit from the state fire marshal for permanent or temporary storage. Storage permits are not required for day boxes used at a display site.

(b) A storage site permit shall be valid for a period of four years. ~~The No fee for a storage site permit shall not be less than \$25 or more than \$75 be charged.~~

Sec. 4. K.S.A. 2015 Supp. 31-133a, 31-503 and 31-504 are hereby repealed.

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

Approved March 31, 2016.

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## CHAPTER 35

## HOUSE BILL No. 2387

AN ACT concerning emergency medical services; amending K.S.A. 2015 Supp. 65-6102, 65-6111, 65-6112, 65-6120, 65-6121, 65-6129b, 65-6129c, 65-6133, 65-6135 and 65-6144 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 65-6102 is hereby amended to read as follows: 65-6102. (a) There is hereby established the emergency medical services board. The office of the emergency medical services board shall be located in the city of Topeka, Kansas.

(b) The emergency medical services board shall be composed of 15 members to be appointed as follows:

(1) Eleven members shall be appointed by the governor. Of such members:

(A) Three shall be physicians who are actively involved in emergency medical services;

(B) two shall be county commissioners of counties making a levy for ambulance service, at least one of whom shall be from a county having a population of less than 15,000;

(C) one shall be an instructor-coordinator;

(D) one shall be a hospital administrator actively involved in emergency medical services;

(E) one shall be a member of a firefighting unit which provides emergency medical service; and

(F) three shall be attendants who are actively involved in emergency medical service. At least two classifications of attendants shall be represented. At least one of such members shall be from a volunteer emergency medical service; and

(2) four members shall be appointed as follows:

(A) One shall be a member of the Kansas senate to be appointed by the president of the senate;

(B) one shall be a member of the Kansas senate to be appointed by the minority leader of the senate;

(C) one shall be a member of the Kansas house of representatives to be appointed by the speaker of the house of representatives; and

(D) one shall be a member of the Kansas house of representatives to be appointed by the minority leader of the house of representatives.

All members of the board shall be residents of the state of Kansas. Appointments to the board shall be made with due consideration that representation of the various geographical areas of the state is ensured. The governor may remove any member of the board upon recommendation of the board. Any person appointed to a position on the board shall forfeit such position upon vacating the office or position which qualified such person to be appointed as a member of the board.

(c) ~~Of the two additional physician members appointed by the governor on and after July 1, 2011, one shall be appointed for a term of three years and one shall be appointed for a term of four years. Thereafter, Members shall be appointed for terms of four years and until their successors are appointed and qualified. In the case of a vacancy in the membership of the board, the vacancy shall be filled for the unexpired term.~~

(d) The board shall meet at least six times annually and at least once each quarter and at the call of the chairperson or at the request of the ~~administrator~~ *executive director* of the emergency medical services board or of any ~~six~~ *seven* members of the board. At the first meeting of the board after January 1 each year, the members shall elect a chairperson and a vice-chairperson who shall serve for a term of one year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. If a vacancy occurs in the office of the chairperson or vice-chairperson, the board shall fill such vacancy by election of one of its members to serve the unexpired term of such office. Members of the board attending meetings of the board or attending a subcommittee meeting thereof authorized by the board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(e) Except as otherwise provided by law, all vouchers for expenditures and all payrolls of the emergency medical services board shall be approved by the emergency medical services board or a person designated by the board.

Sec. 2. K.S.A. 2015 Supp. 65-6111 is hereby amended to read as follows: 65-6111. (a) The emergency medical services board shall:

- (1) Adopt any rules and regulations necessary to carry out the provisions of this act;
- (2) review and approve the allocation and expenditure of moneys appropriated for emergency medical services;
- (3) conduct hearings for all regulatory matters concerning ambulance services, attendants, instructor-coordinators, training officers and ~~providers of training~~ *sponsoring organizations*;
- (4) submit a budget to the legislature for the operation of the board;
- (5) develop a state plan for the delivery of emergency medical services;
- (6) enter into contracts as may be necessary to carry out the duties and functions of the board under this act;
- (7) review and approve all requests for state and federal funding involving emergency medical services projects in the state or delegate such duties to the ~~administrator~~ *executive director*;
- (8) approve all training programs for attendants, instructor-coordinators and training officers and prescribe certification application fees by rules and regulations;

(9) approve methods of examination for certification of attendants, training officers and instructor-coordinators and prescribe examination fees by rules and regulations;

(10) appoint a medical advisory council of not less than six members, including ~~two one~~ board members, ~~one of whom~~ *member who* shall be a physician and not less than ~~four~~ *five* other physicians who are active and knowledgeable in the field of emergency medical services who are not members of the board to advise and assist the board in medical standards and practices as determined by the board. The medical advisory council shall elect a chairperson from among its membership and shall meet upon the call of the chairperson; and

(11) approve ~~providers of training~~ *sponsoring organizations* by prescribing standards and requirements by rules and regulations and withdraw or modify such approval in accordance with the Kansas administrative ~~procedures~~ *procedure* act and the rules and regulations of the board.

(b) The emergency medical services board may grant a temporary variance from an identified rule or regulation when a literal application or enforcement of the rule or regulation would result in serious hardship and the relief granted would not result in any unreasonable risk to the public interest, safety or welfare.

Sec. 3. K.S.A. 2015 Supp. 65-6112 is hereby amended to read as follows: 65-6112. As used in this act:

(a) “Administrator” means the executive director of the emergency medical services board.

(b) “Advanced emergency medical technician” means a person who holds an advanced emergency medical technician certificate issued pursuant to this act.

(c) “Advanced practice registered nurse” means an advanced practice registered nurse as defined in K.S.A. 65-1113, and amendments thereto.

(d) “Ambulance” means any privately or publicly owned motor vehicle, airplane or helicopter designed, constructed, prepared, staffed and equipped for use in transporting and providing emergency care for individuals who are ill or injured.

(e) “Ambulance service” means any organization operated for the purpose of transporting sick or injured persons to or from a place where medical care is furnished, whether or not such persons may be in need of emergency or medical care in transit.

(f) “Attendant” means a first responder, an emergency medical responder, emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, emergency medical technician-intermediate/defibrillator, advanced emergency medical technician, ~~mobile intensive care technician~~ or paramedic certified pursuant to this act.

(g) “Board” means the emergency medical services board established pursuant to K.S.A. 65-6102, and amendments thereto.

(h) “Emergency medical service” means the effective and coordinated delivery of such care as may be required by an emergency which includes the care and transportation of individuals by ambulance services and the performance of authorized emergency care by a physician, advanced practice registered nurse, professional nurse, a licensed physician assistant or attendant.

(i) “Emergency medical technician” means a person who holds an emergency medical technician certificate issued pursuant to this act.

(j) “Emergency medical technician-defibrillator” means a person who holds an emergency medical technician-defibrillator certificate issued pursuant to this act.

(k) “Emergency medical technician-intermediate” means a person who holds an emergency medical technician-intermediate certificate issued pursuant to this act.

(l) “Emergency medical technician-intermediate/defibrillator” means a person who holds both an emergency medical technician-intermediate and emergency medical technician-defibrillator certificate issued pursuant to this act.

(m) “Emergency medical responder” means a person who holds an emergency medical responder certificate issued pursuant to this act.

(n) “First responder” means a person who holds a first responder certificate issued pursuant to this act.

(o) “Hospital” means a hospital as defined by K.S.A. 65-425, and amendments thereto.

(p) “Instructor-coordinator” means a person who is certified under this act to teach *or coordinate both* initial certification and continuing education classes.

(q) “Medical director” means a physician.

(r) “Medical protocols” mean written guidelines which authorize attendants to perform certain medical procedures prior to contacting a physician, physician assistant authorized by a physician, advanced practice registered nurse authorized by a physician or professional nurse authorized by a physician. The medical protocols shall be approved by a county medical society or the medical staff of a hospital to which the ambulance service primarily transports patients, or if neither of the above are able or available to approve the medical protocols, then the medical protocols shall be submitted to the medical advisory council for approval.

~~(s) “Mobile intensive care technician” means a person who holds a mobile intensive care technician certificate issued pursuant to this act.~~

~~(t)~~ “Municipality” means any city, county, township, fire district or ambulance service district.

~~(u)~~(t) “Nonemergency transportation” means the care and transport of a sick or injured person under a foreseen combination of circumstances

calling for continuing care of such person. As used in this subsection, transportation includes performance of the authorized level of services of the attendant whether within or outside the vehicle as part of such transportation services.

~~(v)~~(u) “Operator” means a person or municipality who has a permit to operate an ambulance service in the state of Kansas.

~~(w)~~(v) “Paramedic” means a person who holds a paramedic certificate issued pursuant to this act.

~~(x)~~(w) “Person” means an individual, a partnership, an association, a joint-stock company or a corporation.

~~(y)~~(x) “Physician” means a person licensed by the state board of healing arts to practice medicine and surgery.

~~(z)~~(y) “Physician assistant” means a person who is licensed under the physician assistant licensure act and who is acting under the direction of a supervising physician assistant as defined in K.S.A. 65-28a02, and amendments thereto.

~~(aa)~~(z) “Professional nurse” means a licensed professional nurse as defined by K.S.A. 65-1113, and amendments thereto.

~~(bb)~~ “Provider of training” means a corporation, partnership, accredited postsecondary education institution, ambulance service, fire department, hospital or municipality that conducts training programs that include, but are not limited to, initial courses of instruction and continuing education for attendants, instructor-coordinators or training officers

~~(aa)~~ “Sponsoring organization” means any professional association, accredited postsecondary educational institution, ambulance service which holds a permit to operate in this state, fire department, other officially organized public safety agency, hospital, corporation, governmental entity or emergency medical services regional council, as approved by the executive director, to offer initial courses of instruction or continuing education programs.

~~(cc)~~ “Supervising physician” means supervising physician as such term is defined under K.S.A. 65-28a02, and amendments thereto.

~~(dd)~~(bb) “Training officer” means a person who is certified pursuant to this act to teach, or coordinate or both, initial courses of instruction for first responders or emergency medical responders and continuing education as prescribed by the board.

Sec. 4. K.S.A. 2015 Supp. 65-6120 is hereby amended to read as follows: 65-6120. (a) Notwithstanding any other provision of law to the contrary, an emergency medical technician-intermediate may:

(1) Perform any of the activities identified by K.S.A. 65-6121(a), and amendments thereto;

(2) when approved by medical protocols or where voice contact by radio or telephone is monitored by a physician, physician assistant where authorized by a physician, advanced practice registered nurse where au-



thorized by a physician or ~~licensed~~ professional nurse where authorized by a physician, and direct communication is maintained, upon order of such person, may perform veni-puncture for the purpose of blood sampling collection and initiation and maintenance of intravenous infusion of saline solutions, dextrose and water solutions or ringers lactate IV solutions, endotracheal intubation and administration of nebulized albuterol;

(3) perform, during an emergency, those activities specified in subsection (a)(2) before contacting the persons identified in subsection (a)(2) when specifically authorized to perform such activities by medical protocols; or

(4) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols.

(b) An individual who holds a valid certificate as an emergency medical technician-intermediate once successfully completing the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, may apply to transition to become an advanced emergency medical technician. Alternatively, upon application for renewal, such individual shall be deemed to hold a certificate as an advanced emergency medical technician under this act, provided such individual has completed all continuing education hour requirements inclusive of the successful completion of a transition course and such individual shall not be required to file an original application for certification as an advanced emergency medical technician under this act.

(c) “Renewal” as used in subsection (b), refers to the first or second opportunity after December 31, 2011, that an emergency medical technician-intermediate has to apply for renewal of a certificate.

(d) Emergency medical technician-intermediates who fail to meet the transition requirements as specified may complete either the board prescribed emergency medical technician transition course or emergency medical responder transition course, provide validation of cognitive and psychomotor competency and all continuing education hour requirements inclusive of the successful completion of a transition course as determined by rules and regulations of the board. Upon completion, such emergency medical technician-intermediate may apply to transition to become an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Alternatively, upon application for renewal of an emergency medical technician-intermediate certificate, the applicant shall be renewed as an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Such individual shall not be required to file an original application for certification as an emergency medical technician or emergency medical responder.

(e) Failure to successfully complete either an advanced emergency medical technician transition course, an emergency medical technician transition course or emergency medical responder transition course will result in loss of certification.

(f) Upon transition, notwithstanding any other provision of law to the contrary, an advanced emergency medical technician may:

(1) Perform any of the activities identified by K.S.A. 65-6121, and amendments thereto; and

(2) perform any of the following interventions, by use of the devices, medications and equipment, or any combination thereof, as specifically identified in rules and regulations, after successfully completing an approved course of instruction, local specialized device training and competency validation and when authorized by medical protocols, or upon order when direct communication is maintained by radio, telephone or video conference with a physician, physician assistant where authorized by a physician, an advanced practice registered nurse where authorized by a physician, or ~~licensed~~ professional nurse where authorized by a physician upon order of such a person: ~~(A) Continuous positive airway pressure devices;~~ ~~(B) Advanced airway management;~~ ~~(C) (B) referral of patient of alternate medical care site based on assessment;~~ ~~(D) (C) transportation of a patient with a capped arterial line;~~ ~~(E) (D) veni-puncture for obtaining blood sample;~~ ~~(F) (E) initiation and maintenance of intravenous infusion or saline lock;~~ ~~(G) (F) initiation of intraosseous infusion;~~ ~~(H) (G) nebulized therapy;~~ ~~(I) (H) manual defibrillation and cardioversion;~~ ~~(J) (I) cardiac monitoring;~~ ~~(K) (J) electrocardiogram interpretation;~~ ~~(K) monitoring of a nasogastric tube;~~ (L) administration of generic or trade name medications by one or more of the following methods: ~~(i) Aerosolization;~~ ~~(ii) nebulization;~~ ~~(iii) intravenous;~~ ~~(iv) intranasal;~~ ~~(v) rectal;~~ ~~(vi) subcutaneous;~~ ~~(vii) intraosseous;~~ ~~(viii) intramuscular;~~ or ~~(ix) sublingual as specified by rules and regulations of the board.~~

(g) An individual who holds a valid certificate as both an emergency medical technician-intermediate and as an emergency medical technician-defibrillator once successfully completing the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, may apply to transition to an advanced emergency medical technician. Alternatively, upon application for renewal, such individual shall be deemed to hold a certificate as an advanced emergency medical technician under this act, provided such individual has completed all continuing education hour requirements inclusive of successful completion of a transition course, and such individual shall not be required to file an original application for certification as an advanced emergency medical technician under this act.

(h) “Renewal” as used in subsection (g), refers to the first or second opportunity after December 31, 2011, that an emergency medical tech-

nician-intermediate and emergency medical technician-defibrillator has to apply for renewal of a certificate.

(i) An individual who holds both an emergency medical technician-intermediate certificate and an emergency medical technician-defibrillator certificate, who fails to meet the transition requirements as specified may complete either the board prescribed emergency medical technician transition course or emergency medical responder transition course, and provide validation of cognitive and psychomotor competency and all continuing education hour requirements inclusive of successful completion of a transition course as determined by rules and regulations of the board. Upon completion, such individual may apply to transition to become an emergency medical technician or emergency medical responder, depending on the transition course that was successfully completed. Alternatively, upon application for renewal of an emergency medical technician-intermediate certificate and an emergency medical technician-defibrillator certificate, the applicant shall be renewed as an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Such individual shall not be required to file an original application for certification as an emergency medical technician or emergency medical responder.

(j) Failure to successfully complete either the advanced emergency medical technician transition requirements, an emergency medical technician transition course or the emergency medical responder transition course will result in loss of certification.

Sec. 5. K.S.A. 2015 Supp. 65-6121 is hereby amended to read as follows: 65-6121. (a) ~~Notwithstanding any other provision of law to the contrary, an emergency medical technician may perform any of the following activities:~~

- ~~(1) Patient assessment and vital signs;~~
- ~~(2) airway maintenance including the use of:~~
  - ~~(A) Oropharyngeal and nasopharyngeal airways;~~
  - ~~(B) esophageal obturator airways with or without gastric suction device;~~
  - ~~(C) multi-lumen airway; and~~
  - ~~(D) oxygen demand valves.~~
- ~~(3) Oxygen therapy;~~
- ~~(4) oropharyngeal suctioning;~~
- ~~(5) cardiopulmonary resuscitation procedures;~~
- ~~(6) control accessible bleeding;~~
- ~~(7) apply pneumatic anti-shock garment;~~
- ~~(8) manage outpatient medical emergencies;~~
- ~~(9) extricate patients and utilize lifting and moving techniques;~~
- ~~(10) manage musculoskeletal and soft tissue injuries including dress-~~

~~ing and bandaging wounds or the splinting of fractures, dislocations, sprains or strains;~~

~~(11) use of backboards to immobilize the spine;~~

~~(12) administer activated charcoal and glucose;~~

~~(13) monitor intravenous line delivering intravenous fluids during interfacility transport with the following restrictions:~~

~~(A) The physician approves the transfer by an emergency medical technician;~~

~~(B) no medications or nutrients have been added to the intravenous fluids; and~~

~~(C) the emergency medical technician may monitor, maintain and shut off the flow of intravenous fluid;~~

~~(14) use automated external defibrillators;~~

~~(15) administer epinephrine auto-injectors provided that:~~

~~(A) The emergency medical technician successfully completes a course of instruction approved by the board in the administration of epinephrine;~~

~~(B) the emergency medical technician serves with an ambulance service or a first response organization that provides emergency medical services; and~~

~~(C) the emergency medical technician is acting pursuant to medical protocols;~~

~~(16) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols; or~~

~~(17) when authorized by medical protocol, assist the patient in the administration of the following medications which have been prescribed for that patient: Auto-injection epinephrine, sublingual nitroglycerin and inhalers for asthma and emphysema.~~

~~(b) An individual who holds a valid certificate as an emergency medical technician at the current basic level once successfully completing the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, may apply to transition to become an emergency medical technician. Alternatively, upon application for renewal, such individual shall be deemed to hold a certificate as an emergency medical technician under this act, provided such individual has completed all continuing education hour requirements inclusive of successful completion of a transition course, and such individual shall not be required to file an original application for certification as an emergency medical technician.~~

~~(c) "Renewal" as used in subsection (b), refers to the first opportunity after December 31, 2011, that an emergency medical technician has to apply for renewal of a certificate following the effective date of this act.~~

~~(d) Emergency medical technicians who fail to meet the transition requirements as specified may successfully complete the board pre-~~

~~scribed emergency medical responder transition course, provide validation of cognitive and psychomotor competency and all continuing education hour requirements inclusive of the successful completion of a transition course as determined by rules and regulations of the board. Alternatively, upon application for renewal of an emergency medical technician certificate, the applicant shall be deemed to hold a certificate as an emergency medical responder under this act, and such individual shall not be required to file an original application for certification as an emergency medical responder.~~

~~(e) Failure to successfully complete either an emergency medical technician transition course or emergency medical responder transition course will result in loss of certification.~~

~~(f) Upon transition, notwithstanding any other provision of law to the contrary, an emergency medical technician may perform any activities identified in K.S.A. 65-6144, and amendments thereto, and any of the following interventions, by use of the devices, medications and equipment, or any combination thereof, after successfully completing an approved course of instruction, local specialized device training and competency validation and when authorized by medical protocols, or upon order when direct communication is maintained by radio, telephone or video conference is monitored by a physician, physician assistant when authorized by a physician, an advanced practice registered nurse when authorized by a physician or a licensed professional nurse when authorized by a physician, upon order of such person:~~

- ~~(1) Airway maintenance including use of:~~
  - ~~(A) Single lumen airways as approved by the board;~~
  - ~~(B) multilumen airways;~~
  - ~~(C) ventilator devices;~~
  - ~~(D) non-invasive positive pressure ventilation;~~
  - ~~(E) forceps removal of airway obstruction;~~
  - ~~(F) CO2 monitoring;~~
  - ~~(G) airway suctioning;~~
- ~~(2) apply pneumatic anti shock garment;~~
- ~~(3) assist with childbirth;~~
- ~~(4) monitoring urinary catheter;~~
- ~~(5) capillary blood sampling;~~
- ~~(6) cardiac monitoring;~~
- ~~(7) administration of patient assisted medications as approved by the board;~~
- ~~(8) administration of medications as approved by the board by appropriate routes; and~~
- ~~(9) monitor, maintain or discontinue flow of IV line if a physician approves transfer by an emergency medical technician; and~~
- ~~(7) application of a traction splint.~~

Sec. 6. K.S.A. 2015 Supp. 65-6129b is hereby amended to read as follows: 65-6129b. (a) Application for an instructor-coordinator's certificate shall be made to the board upon forms provided by the ~~administrator~~ *executive director*. The board may grant an instructor-coordinator's certificate to an attendant who: (1) Has served as an attendant in the emergency medical services field during the preceding 12 months prior to applying for such certificate; (2) has made application within one year after successfully completing the training, approved by the board, in instructing and coordinating attendant training programs; (3) has passed an examination prescribed by the board; and (4) has paid a fee as prescribed by rules and regulations of the board.

(b) The board may grant an instructor-coordinator's certificate to a physician or a professional nurse who: (1) Has made application within one year after successfully completing the training, approved by the board, in instructing and coordinating attendant training programs; (2) has passed an examination prescribed by the board; and (3) has paid a fee as prescribed by rules and regulations of the board.

(c) An instructor-coordinator's certificate shall expire on the expiration date of the attendant's certificate if the instructor-coordinator is an attendant or on the expiration date of the physician's or professional nurse's license if the instructor is a physician or professional nurse. An instructor-coordinator's certificate may be renewed for the same period as the attendant's certificate or the physician's or professional nurse's license upon payment of a fee as prescribed by rule and regulation of the board and upon presentation of satisfactory proof that the instructor-coordinator has successfully completed continuing education as prescribed by the board. The board may prorate to the nearest whole month the fee fixed under this subsection as necessary to implement the provisions of this subsection.

(d) An instructor-coordinator's certificate may be denied, revoked, limited, modified or suspended by the board or the board may refuse to renew such certificate if such individual:

(1) Does not hold an attendant's certificate or a physician's or professional nurse's license;

(2) has made misrepresentations intentionally in obtaining a certificate or renewing a certificate;

(3) has demonstrated incompetence or engaged in unprofessional conduct as defined by rules and regulations adopted by the board;

(4) has violated or aided and abetted in the violation of any provision of this act or rules and regulations adopted by the board; or

(5) has been convicted of any state or federal crime that is related substantially to the qualifications, functions and duties of an instructor-coordinator or any crime punishable as a felony under any state or federal statute, and the board determines that such individual has not been sufficiently rehabilitated to warrant the public trust. A conviction means a

plea of guilty, a plea of nolo contendere or a verdict of guilty. The board may take disciplinary action pursuant to this section when the time for appeal has elapsed, or after the judgment of conviction is affirmed on appeal or when an order granting probation is made suspending the imposition of sentence.

(e) The board may *deny*, limit, modify, revoke or suspend a certificate or the board may refuse to renew such certificate in accordance with the provisions of the Kansas administrative procedure act.

(f) All fees received 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.

(g) If a person who was previously certified as an instructor-coordinator applies for an instructor-coordinator certificate within two years of the date of its expiration, the board may grant a certificate without the person completing the training or passing an examination if the person complies with the other provisions of subsection (a) or (b) and completes continuing education requirements prescribed by the board.

Sec. 7. K.S.A. 2015 Supp. 65-6129c is hereby amended to read as follows: 65-6129c. (a) Application for a training officer's certificate shall be made to the emergency medical services board upon forms provided by the ~~administrator~~ *executive director*. The board may grant a training officer's certificate to an applicant who: (1) Is an ~~emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, mobile intensive care technician, advanced emergency medical technician, paramedic~~ *attendant certified pursuant to K.S.A. 65-6119, 65-6120 and 65-6121, and amendments thereto*, physician, physician assistant, advanced practice registered nurse or professional nurse; (2) successfully completes an initial course of training approved by the board; (3) passes an examination prescribed by the board; (4) is appointed by a ~~provider of training~~ *sponsoring organization* approved by the board; and (5) has paid a fee established by the board.

(b) A training officer's certificate shall expire on the expiration date of the attendant's certificate if the training officer is an attendant or on the expiration date of the physician's, physician assistant's, advanced practice registered nurse's or professional nurse's license if the training officer is a physician, physician assistant, advanced practice registered nurse or professional nurse. A training officer's certificate may be renewed for the same period as the attendant's certificate or the physician's, physician assistant's, advanced practice registered nurse's or professional nurse's license upon payment of a fee as prescribed by rules and regulations and upon presentation of satisfactory proof that the training officer has successfully completed continuing education prescribed by the board and is

certified as ~~an emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, mobile-intensive care technician, advanced emergency medical technician, paramedic~~ *an attendant certified pursuant to K.S.A. 65-6119, 65-6120 and 65-6121, and amendments thereto*, physician, physician assistant, advanced practice registered nurse or professional nurse. The board may prorate to the nearest whole month the fee fixed under this subsection as necessary to implement the provisions of this subsection.

(c) A training officer's certificate may be denied, revoked, limited, modified or suspended by the board or the board may refuse to renew such certificate if such individual:

(1) Fails to maintain certification or licensure as ~~an emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, mobile-intensive care technician, advanced emergency medical technician, paramedic~~ *an attendant certified pursuant to K.S.A. 65-6119, 65-6120 and 65-6121, and amendments thereto*, physician, physician assistant, advanced practice registered nurse or professional nurse;

(2) fails to maintain support of appointment by a ~~provider of training sponsoring organization~~;

(3) fails to successfully complete continuing education;

(4) has made intentional misrepresentations in obtaining a certificate or renewing a certificate;

(5) has demonstrated incompetence or engaged in unprofessional conduct as defined by rules and regulations adopted by the board;

(6) has violated or aided and abetted in the violation of any provision of this act or the rules and regulations promulgated by the board; or

(7) has been convicted of any state or federal crime that is related substantially to the qualifications, functions and duties of a training officer or any crime punishable as a felony under any state or federal statute and the board determines that such individual has not been sufficiently rehabilitated to warrant public trust. A conviction means a plea of guilty, a plea of *nolo contendere* or a verdict of guilty. The board may take disciplinary action pursuant to this section when the time for appeal has elapsed, or after the judgment of conviction is affirmed on appeal or when an order granting probation is made suspending the imposition of sentence.

(d) The board may *deny*, revoke, limit, modify or suspend a *training officer* certificate or the board may refuse to renew such certificate in accordance with the provisions of the Kansas administrative procedure act.

(e) If a person who previously was certified as a training officer applies for a training officer's certificate within two years of the date of its expiration, the board may grant a certificate without the person completing an initial course of training or taking an examination if the person



complies with the other provisions of subsection (a) and completes continuing education requirements.

Sec. 8. K.S.A. 2015 Supp. 65-6133 is hereby amended to read as follows: 65-6133. (a) An attendant's, ~~instructor-coordinator's or training officer's~~ certificate may be denied, revoked, limited, modified or suspended by the board or the board may refuse to renew such certificate upon proof that such individual:

(1) Has made intentional misrepresentations in obtaining a certificate or renewing a certificate;

(2) has performed or attempted to perform activities not authorized by statute at the level of certification held by the individual;

(3) has demonstrated incompetence as defined by rules and regulations adopted by the board or has provided inadequate patient care as determined by the board;

(4) has violated or aided and abetted in the violation of any provision of this act or the rules and regulations adopted by the board;

(5) has been convicted of a felony and, after investigation by the board, it is determined that such person has not been sufficiently rehabilitated to warrant the public trust;

(6) has demonstrated an inability to perform authorized activities with reasonable skill and safety by reason of illness, alcoholism, excessive use of drugs, controlled substances or any physical or mental condition;

(7) has engaged in unprofessional conduct, as defined by rules and regulations adopted by the board; or

(8) has had a certificate, license or permit to practice emergency medical services as an attendant denied, revoked, limited or suspended or has been publicly or privately censured, by a licensing or other regulatory authority of another state, agency of the United States government, territory of the United States or other country or has had other disciplinary action taken against the applicant or holder of a permit, license or certificate by a licensing or other regulatory authority of another state, agency of the United States government, territory of the United States or other country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing or other regulatory authority of another state, agency of the United States government, territory of the United States or other country shall constitute prima facie evidence of such a fact for purposes of this paragraph.

(b) The board may *deny*, limit, modify, revoke or suspend an attendant's ~~or instructor-coordinator's~~ certificate or the board may refuse to renew such certificate in accordance with the provisions of the Kansas administrative procedure act.

Sec. 9. K.S.A. 2015 Supp. 65-6135 is hereby amended to read as follows: 65-6135. (a) All ambulance services providing emergency care as

defined by the rules and regulations adopted by the board shall offer service 24 hours per day every day of the year.

(b) Whenever an operator is required to have a permit, at least one person on each vehicle providing emergency medical service shall be an attendant ~~certified as an emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, a mobile intensive care technician, emergency medical technician-intermediate/defibrillator, advanced emergency medical technician, a paramedic pursuant to K.S.A. 65-6119, 65-6120 or 65-6121, and amendments thereto,~~ a physician, a ~~licensed~~ physician assistant, a ~~licensed~~ an advanced practice registered nurse or a professional nurse.

Sec. 10. K.S.A. 2015 Supp. 65-6144 is hereby amended to read as follows: 65-6144. (a) ~~A first responder may perform any of the following activities:~~

(1) ~~Initial scene management including, but not limited to, gaining access to the individual in need of emergency care, extricating, lifting and moving the individual;~~

(2) ~~cardiopulmonary resuscitation and airway management;~~

(3) ~~control of bleeding;~~

(4) ~~extremity splinting excluding traction splinting;~~

(5) ~~stabilization of the condition of the individual in need of emergency care;~~

(6) ~~oxygen therapy;~~

(7) ~~use of oropharyngeal airways;~~

(8) ~~use of bag valve masks;~~

(9) ~~use automated external defibrillators; and~~

(10) ~~other techniques of preliminary care a first responder is trained to provide as approved by the board.~~

(b) ~~An individual who holds a valid certificate as a first responder, once completing the board-prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, may apply to transition to become an emergency medical responder. Alternatively, upon application for renewal of such certificate, such individual shall be deemed to hold a certificate as an emergency medical responder under this act, provided such individual has completed all continuing education hour requirements inclusive of a transition course and such individual shall not be required to file an original application for certification as an emergency medical responder.~~

(c) ~~“Renewal” as used in subsection (b), refers to the first opportunity after December 31, 2011, that an attendant has to apply for renewal of a certificate.~~

(d) ~~First responder attendants who fail to meet the transition requirements as specified will forfeit their certification.~~

(e) ~~Upon transition, notwithstanding any other provision of law to the~~

~~contrary~~; An emergency medical responder may perform any of the following interventions, by use of the devices, medications and equipment, or any combination thereof, after successfully completing an approved course of instruction, local specialized device training and competency validation and when authorized by medical protocols, or upon order when direct communication is maintained by radio, telephone or video conference is monitored by a physician, physician assistant when authorized by a physician, an advanced practice registered nurse when authorized by a physician or a ~~licensed~~ professional nurse when authorized by a physician, upon order of such person: (1) Emergency vehicle operations; (2) initial scene management; (3) patient assessment and stabilization; (4) *cardiac arrest management through the use of cardiopulmonary resuscitation and airway management the use of an automated external defibrillator*; (5) *airway management and oxygen therapy*; (6) *utilization of equipment for the purposes of acquiring an EKG rhythm strip*; (7) control of bleeding; ~~(6)~~ (8) extremity splinting; ~~(7)~~ (9) spinal immobilization; ~~(8)~~ *oxygen therapy*; ~~(9)~~ *use of bag-valve-mask*; ~~(10)~~ *use of automated external defibrillator*; ~~(11)~~ (10) nebulizer therapy; ~~(12)~~ (11) intramuscular injections with auto-injector; ~~(13)~~ (12) administration of oral glucose; ~~(14)~~ *administration of aspirin*; ~~(15)~~ *medications as approved by the board by appropriate routes*; (13) recognize and comply with advanced directives; ~~(16)~~ *insertion and maintenance of oral and nasal pharyngeal airways*; ~~(17)~~ (14) use of blood glucose monitoring; (15) *assist with childbirth*; (16) *non-invasive monitoring of hemoglobin derivatives*; and ~~(18)~~ (17) other techniques and devices of preliminary care an emergency medical responder is trained to provide as approved by the board.

Sec. 11. K.S.A. 2015 Supp. 65-6102, 65-6111, 65-6112, 65-6120, 65-6121, 65-6129b, 65-6129c, 65-6133, 65-6135 and 65-6144 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 31, 2016.

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## CHAPTER 36

## HOUSE BILL No. 2447

AN ACT concerning crimes, punishment and criminal procedure; relating to the secretary of corrections; program credits; delinquent time lost on parole; amending K.S.A. 2015 Supp. 21-6821 and 75-5217 and repealing the existing sections.

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

Section 1. K.S.A. 2015 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 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 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. 2015 Supp. 21-5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2015 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 post-release 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 correc-

tions 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 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 circumstances 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 offenders' 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 ~~90~~ 120 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 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. 2015 Supp. 21-5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2015 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 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.~~

*(1) The secretary of corrections shall make the good time and program credit calculations authorized by section 1 of chapter 54 of the 2015 Session Laws of Kansas no later than January 1, 2016.*

*(2) The secretary of corrections shall make the program credit calculations authorized by the amendments to this section by this act no later than January 1, 2017.*

(h) The amendments to this section by *section 1 of chapter 54 of the 2015 session laws of Kansas* and this act shall be construed and applied retroactively.

Sec. 2. K.S.A. 2015 Supp. 75-5217 is hereby amended to read as follows: 75-5217. (a) At any time during release on parole, conditional release or postrelease supervision, the secretary of corrections may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release, or a notice to appear to answer to a charge of violation. Such notice shall be served personally upon the released inmate. The warrant shall authorize any law enforcement officer to arrest and deliver the released inmate to a place as provided by subsection (g). Any parole officer may arrest such released inmate without a warrant, or may deputize any other officer with power of arrest to do so by giving such officer a written or verbal arrest and detain order setting forth that the released inmate, in the judgment of the parole officer, has violated the conditions of the inmate's release. A written arrest and detain order delivered to the official in charge of the institution or place to which the released inmate is brought for detention shall be sufficient warrant for detaining the inmate. After making an arrest the parole officer shall pres-

ent to the detaining authorities a similar arrest and detain order and statement of the circumstances of violation. Pending a hearing, as provided in this section, upon any charge of violation the released inmate shall remain incarcerated in the institution or place to which the inmate is taken for detention.

(b) Upon such arrest and detention, the parole officer shall notify the secretary of corrections, or the secretary's designee, within five days and shall submit in writing a report showing in what manner the released inmate had violated the conditions of release. After such notification is given to the secretary of corrections, or upon an arrest by warrant as herein provided and the finding of probable cause pursuant to procedures established by the secretary of a violation of the released inmate's conditions of release, the secretary or the secretary's designee may cause the released inmate to be brought before the prisoner review board, its designee or designees, for a hearing on the violation charged, under such rules and regulations as the board may adopt, or may dismiss the charges that the released inmate has violated the conditions of release and order the released inmate to remain on parole, conditional release or post release supervision. *A dismissal of charges may be conditioned on the released inmate agreeing to the withholding of credit for the period of time from the date of the issuance of the secretary's warrant and the offender's arrest or return to Kansas as provided by subsection (f).* It is within the discretion of the board whether such hearing requires the released inmate to appear personally before the board when such inmate's violation results from a conviction for a new felony or misdemeanor. An offender under determinative sentencing whose violation does not result from a conviction of a new felony or misdemeanor may waive the right to a final revocation hearing before the board under such conditions and terms as may be prescribed by rules and regulations promulgated by the secretary of corrections. Relevant written statements made under oath shall be admitted and considered by the board, its designee or designees, along with other evidence presented at the hearing. If the violation is established to the satisfaction of the board, the board may continue or revoke the parole or conditional release, or enter such other order as the board may see fit. The revocation of release of inmates who are on a specified period of postrelease supervision shall be for a six-month period of confinement from the date of the revocation hearing before the board or the effective date of waiver of such hearing by the offender pursuant to rules and regulations promulgated by the board, if the violation does not result from a conviction for a new felony or misdemeanor. Such period of confinement may be reduced by not more than three months based on the inmate's conduct, work and program participation during the incarceration period. The reduction in the incarceration period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(c) If the violation results from a conviction for a new felony, upon revocation, the inmate shall serve a period of confinement, to be determined by the prisoner review board, which shall not exceed the remaining balance of the period of postrelease supervision, even if the new conviction did not result in the imposition of a new term of imprisonment.

(d) If the violation results from a conviction for a new misdemeanor, upon revocation, the inmate shall serve a period of confinement, to be determined by the prisoner review board, which shall not exceed the remaining balance of the period of postrelease supervision.

(e) In the event the released inmate reaches conditional release date as provided by K.S.A. 22-3718, and amendments thereto, after a finding of probable cause, pursuant to procedures established by the secretary of corrections of a violation of the released inmate's conditions of release, but prior to a hearing before the prisoner review board, the secretary of corrections shall be authorized to detain the inmate until the hearing by the board. The secretary shall then enforce the order issued by the board.

(f) If the secretary of corrections issues a warrant for the arrest of a released inmate for violation of any of the conditions of release and the released inmate is subsequently arrested in the state of Kansas, either pursuant to the warrant issued by the secretary of corrections or for any other reason, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the secretary's warrant to the date of the released inmate's arrest, *except as provided by subsection (i)*.

If a released inmate for whom a warrant has been issued by the secretary of corrections for violation of the conditions of release is subsequently arrested in another state, and the released inmate has been authorized as a condition of such inmate's release to reside in or travel to the state in which the released inmate was arrested, and the released inmate has not absconded from supervision, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the warrant to the date of the released inmate's arrest, *except as provided by subsection (i)*. If the released inmate for whom a warrant has been issued by the secretary of corrections for violation of the conditions of release is subsequently arrested in another state for reasons other than the secretary's warrant and the released inmate does not have authorization to be in the other state or if authorized to be in the other state has been charged by the secretary with having absconded from supervision, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the warrant by the secretary to the date the released inmate is first available to be returned to the state of Kansas, *except as provided by subsection (i)*. If the released inmate for whom a warrant has been issued by the secretary of corrections for violation of a condition of release is subsequently arrested in another state pursuant only to the secretary's warrant, the released inmate's sen-



tence shall not be credited with the period of time from the date of the issuance of the secretary's warrant to the date of the released inmate's arrest, regardless of whether the released inmate's presence in the other state was authorized or the released inmate had absconded from supervision, *except as provided by subsection (i)*.

The secretary may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release and may direct that all reasonable means to serve the warrant and detain such released inmate be employed including, but not limited to, notifying the federal bureau of investigation of such violation and issuance of warrant and requesting from the federal bureau of investigation any pertinent information it may possess concerning the whereabouts of the released inmate.

(g) Law enforcement officers shall execute warrants issued by the secretary of corrections, and shall deliver the inmate named in the warrant to the jail used by the county where the inmate is arrested unless some other place is designated by the secretary, in the same manner as for the execution of any arrest warrant.

(h) For the purposes of this section, an inmate or released inmate is an individual under the supervision of the secretary of corrections, including, but not limited to, an individual on parole, conditional release, postrelease supervision, probation granted by another state or an individual supervised under any interstate compact in accordance with the provisions of the uniform act for out-of-state parolee supervision, K.S.A. 22-4101 et seq., and amendments thereto.

(i) *Time not credited to the released inmate's sentence pursuant to subsection (f) shall be credited if the violation charges are dismissed without an agreement providing otherwise or the violations are not established to the satisfaction of the board.*

Sec. 3. K.S.A. 2015 Supp. 21-6821 and 75-5217 are hereby repealed.

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

Approved March 31, 2016.

Published in the *Kansas Register* April 14, 2016.

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## CHAPTER 37

## HOUSE BILL No. 2134

AN ACT concerning consumer credit; relating to security freezes on protected consumer reports; amending K.S.A. 2015 Supp. 50-702 and repealing the existing section.

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

New Section 1. (a) A consumer reporting agency shall place a security freeze for a protected consumer if the consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze and the protected consumer's representative:

(1) Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(2) provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative;

(3) provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer; and

(4) pays to the consumer reporting agency a fee as provided in subsection (g).

(b) If a consumer reporting agency does not have a record pertaining to a protected consumer when the consumer reporting agency receives a request under subsection (a), the consumer reporting agency shall create a record for the protected consumer.

(c) Within 30 days after receiving a request that meets the requirements of subsection (a), a consumer reporting agency shall place a security freeze for the protected consumer.

(d) Unless a security freeze for a protected consumer is removed in accordance with subsection (f) or (i), a consumer reporting agency shall not release the protected consumer's consumer report, any information derived from the protected consumer's consumer report, or any record created for the protected consumer.

(e) A security freeze for a protected consumer placed under subsection (c) shall remain in effect until:

(1) The protected consumer or the protected consumer's representative requests the consumer reporting agency to remove the security freeze in accordance with subsection (f); or

(2) the security freeze is removed in accordance with subsection (i).

(f) (1) If a protected consumer or a protected consumer's representative wishes to remove a security freeze for a protected consumer, the protected consumer or the protected consumer's representative shall:

(A) Submit a request for the removal of the security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(B) provide to the consumer reporting agency sufficient proof of identification of the protected consumer and:

(i) For a request by the protected consumer, proof that the sufficient proof of authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid; or

(ii) for a request by the representative of a protected consumer, sufficient proof of identification of the representative and sufficient proof of authority to act on behalf of the protected consumer; and

(C) pay to the consumer reporting agency a fee as provided in subsection (g).

(g) (1) Except as otherwise provided in subsection (g)(2), a consumer reporting agency shall not charge a fee for any service performed under this section.

(2) A consumer reporting agency may charge a reasonable fee, not exceeding \$10, for each placement or removal of a security freeze for a protected consumer, except a consumer reporting agency shall not charge any fee under this section if:

(A) The protected consumer's representative has obtained a police report or provided an affidavit of alleged fraud against the protected consumer and provides a copy of the report or the affidavit to the consumer reporting agency; or

(B) a request for the placement or removal of a security freeze is for a protected consumer who is under the age of 18 years at the time of the request and the consumer reporting agency has a consumer report pertaining to the protected consumer.

(h) This section shall not apply to:

(1) A person administering a credit file monitoring subscription service to which the protected consumer has subscribed or the representative of the protected consumer has subscribed on behalf of the protected consumer;

(2) a person providing the protected consumer or the protected consumer's representative with a copy of the protected consumer's consumer report on request of the protected consumer or the protected consumer's representative; or

(3) a person or entity listed in K.S.A. 2015 Supp. 50-723(i)(1) and (6) through (12) or 50-724(a)(1) through (5), and amendments thereto.

(i) A consumer reporting agency may remove a security freeze for a protected consumer or delete a record of a protected consumer if such security freeze was placed or the record was created based on a material misrepresentation of a fact by the protected consumer or the protected consumer's representative.

(j) Any person who fails to comply with any requirement imposed under this section with respect to any protected consumer shall be liable pursuant to the provisions of the fair credit reporting act.

(k) This section shall be part of and supplemental to the fair credit reporting act.

Sec. 2. K.S.A. 2015 Supp. 50-702 is hereby amended to read as follows: 50-702. The following words and phrases when used in the fair credit reporting act shall have the meanings ascribed to them in this section.

(a) The term “person” means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(b) The term “consumer” means an individual.

(c) The term “consumer report” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for credit or insurance to be used primarily for personal, family, or household purposes, or employment purposes, or other purposes authorized under K.S.A. 50-703, and amendments thereto. The term does not include:

(1) Any report containing information solely as to transactions or experiences between the consumer and the person making the report;

(2) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or

(3) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys that decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under K.S.A. 50-714, and amendments thereto.

(d) The term “investigative consumer report” means a consumer report or portion thereof in which information on a consumer’s character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom the consumer is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer’s credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

(e) The term “consumer reporting agency” means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating

consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(f) The term “file,” when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

(g) The term “employment purposes” when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.

(h) The term “medical information” means information or records obtained, with the consent of the individual to whom it relates, from licensed physicians or medical practitioners, hospitals, clinics, or other medical or medically related facilities.

(i) The term “clear and proper identification” means information generally deemed sufficient to identify a person.

(j) The term “security freeze” means a notice placed on a consumer report, at the request of the consumer and subject to certain exceptions, that prohibits a consumer reporting agency from releasing the consumer’s consumer report or credit score relating to the extension of credit.

(k) *The term “protected consumer” means an individual who is:*

- (1) *Under the age of 16 years at the time a request for the placement of a security freeze is made under section 1, and amendments thereto; or*
- (2) *an individual for whom a guardian or conservator has been appointed.*

(l) *The term “record” means a compilation of information about a protected consumer that satisfies all of the following:*

- (1) *The compilation identifies the protected consumer; and*
- (2) *the compilation is created by a consumer reporting agency solely for the purpose of complying with section 1, and amendments thereto.*

(m) *The term “security freeze for a protected consumer” means one of the following:*

- (1) *If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction placed on the protected consumer’s record that prohibits the consumer reporting agency from releasing the protected consumer’s record; or*
- (2) *if a consumer reporting agency has a file pertaining to the protected consumer, a restriction placed on the protected consumer’s consumer report that prohibits the consumer reporting agency from releasing the protected consumer’s consumer report or any information derived from the protected consumer’s consumer report.*

(n) *The term “sufficient proof of authority” means documentation*

that shows a representative has authority to act on behalf of a protected consumer, including any of the following:

- (1) An order issued by a court;
- (2) a lawfully executed and valid power of attorney; or
- (3) a written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

(o) The term “sufficient proof of identification” means information or documentation that identifies a protected consumer or a representative of a protected consumer, including any of the following:

- (1) A social security number or a copy of a social security card issued by the social security administration; or
- (2) a certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate.

Sec. 3. K.S.A. 2015 Supp. 50-702 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after January 1, 2017, and its publication in the Kansas register.

Approved March 31, 2016.

Published in the *Kansas Register* April 14, 2016.

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## CHAPTER 38

### SENATE BILL No. 484°

AN ACT concerning tribal-state compacts; approving a compact between the Prairie Band Potawatomi Nation and the state of Kansas; relating to cigarette and tobacco sales, taxation and escrow collection.

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

Section 1. (a) The compact relating to cigarette and tobacco sales, taxation and escrow collection between the Prairie Band Potawatomi Nation and the state of Kansas submitted by the governor to the senate and house of representatives of the state of Kansas and received and printed in the journal of the senate and the journal of the house of representatives on March 2, 2016, is hereby approved and adopted by reference as the law of this state.

(b) The secretary of the senate is directed to send a copy of such compact to the secretary of state. The secretary of state shall cause such compact to be published in the Kansas register.

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

Approved April 6, 2016.

Published in the *Kansas Register* April 21, 2016.

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## COMPACT RELATING TO CIGARETTE AND TOBACCO SALES, TAXATION AND ESCROW COLLECTION

THIS COMPACT RELATING TO CIGARETTE AND TOBACCO SALES, TAXATION AND ESCROW COLLECTION (“**Compact**”) is entered into between the Prairie Band Potawatomi Nation (along with its agencies, boards, commissions and political subdivisions, the “**Nation**”) and the State of Kansas (along with its agencies, boards, commissions and political subdivisions, the “**State**”). The Nation and the State are each referred to herein as a “**Party**” and collectively referred to herein as the “**Parties.**”

### Recitals

WHEREAS, the Nation is a federally-recognized Indian tribe possessing and exercising inherent sovereign powers of self-government, as defined and recognized by treaties, federal laws and federal court decisions, and that it has responsibilities and needs similar to other governments;

WHEREAS, the State is a state within the United States of America possessing and exercising full powers of state government, as defined and recognized by the United States Constitution, federal laws, federal court decisions, the Kansas Constitution, State laws and State court decisions, and that it has responsibilities and needs similar to other governments;

WHEREAS, both the State and the Nation recognize that pursuant to applicable law each is a sovereign with dominion over their respective territories and governments and that entry into this Compact is not intended nor shall it be construed to cause the sovereignty of either to be diminished;

WHEREAS, the Nation is situated on and occupies a federally-established Indian Reservation situated within the borders of the State;

WHEREAS, federal law recognizes that tribal jurisdiction exists on Qualified Nation Lands regarding the rights of the Nation to pass its own laws and be governed by them;

WHEREAS, it is in the best interests of both the State and the Nation to prevent disputes between the Parties regarding possession, transport, distribution, and Sale of Cigarettes and other Tobacco Products, including but not limited to taxation and escrow collection, in the State of Kansas, on Compact Lands;

WHEREAS, each of the State and the Nation recognize the financial, cultural, educational, and economic contributions of the other;

WHEREAS, each of the State and the Nation respects the sovereignty of the other, and recognizes and supports the other's governmental responsibilities to provide for and govern its citizens, members and territory; Kansas recognizes the Nation's inherent sovereign right to existence, self-government and self-determination; and the Nation recognizes the Kansas's inherent sovereign right to existence, self-government and self-determination;

WHEREAS, the Parties are of the opinion that cooperation between the Nation and the State is mutually productive and beneficial and recognize the need to develop and maintain good Nation/State governmental relations;

WHEREAS, it is in the best interests of the State to continue to reduce the financial burdens imposed on the State by Cigarette smoking and that said costs continue to be borne by Tobacco Product Manufacturers rather than by Kansas to the extent that such Tobacco Product Manufacturers either determine to enter into a settlement with Kansas or are found culpable by the courts;

WHEREAS, on November 23, 1998, the State became party to the MSA;

WHEREAS, certain Tobacco Product Manufacturers, which are party to the MSA, are obligated, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to State (tied in part to their volume of Sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking;

WHEREAS, it would be contrary to the policy of State if Tobacco Product Manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that State will have an eventual source of recovery from them if they are proven to have acted culpably;

WHEREAS, Kansas entered into a Secondary Settlement Agreement with certain participating Tobacco Product Manufacturers in 2012 settling State's obligations under the MSA and disputes regarding certain payment adjustments under the MSA with respect to NPMs (as that term is defined below) for calendar years 2003-2012;

WHEREAS, as part of said Secondary Settlement Agreement, State has agreed to undertake certain diligent enforcement efforts of its Cigarette and other Tobacco Product laws and more specifically, its MSA laws on Qualified Tribal Lands within the borders of State;



WHEREAS, State recognizes the importance to State of forming an alliance with Nation to assist State in its diligent enforcement efforts;

WHEREAS, State further recognizes that the Nation will incur certain economic costs in assisting State in its diligent enforcement efforts which Nation should not be required to endure;

WHEREAS, it is altogether just and proper that State compensate the Nation for its assistance to State in State's diligent enforcement obligation under the MSA and the Secondary Settlement Agreement; and

WHEREAS, the State and the Nation agree that it will serve the interests of both the State and the Nation for the Nation to be able to generate revenue for governmental purposes through the collection of certain Tribal taxes in accordance with this Compact and resolve their differences regarding the State's collection of escrow on certain Cigarettes Sold on Compact Lands.

### **Compact**

NOW, THEREFORE, in consideration of the foregoing recitals which are made a contractual part hereof, and in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### **ARTICLE I DEFINITIONS**

**Section 1.01. Definitions.** Whenever used in this Compact, the following capitalized words and phrases shall have the following meanings: “**AAA**” shall mean the American Arbitration Association.

“**Approved Manufacturer**” shall mean, subject to Section 4.02(c), a Tobacco Product Manufacturer which is (A) in compliance with the Escrow Statutes and the Fire Safety Statutes, and (B) listed on the KSAG's directory of compliant manufacturers pursuant to K.S.A. 50-6a04(B). The KSAG's directories of compliant Tobacco Product Manufacturers can be found on the KSAG's website.

“**Auditor**” shall have the meaning set forth for such term in Section 6.02.

“**Business Day**” shall mean any day that the governmental offices of the Nation are open for business.

“**Carton**” shall mean a container of two hundred (200) Cigarettes, whether consisting of either eight or ten Packs.

“**Cigarette**” shall mean 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;

- (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) above.

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, 0.09 ounces of “roll-your-own” tobacco shall constitute one individual “Cigarette.”

“**Compact**” shall have the meaning set forth for such term in the initial paragraph.

“**Compact Lands**” shall mean only the following Qualified Nation Lands:

- (A) those Qualified Nation Lands within the boundaries of the Nation’s reservation granted in Article 4 of the Treaty with the Potawatomi Nation, ratified July 22, 1846 (9 Stat. 853), as modified by the Treaty with the Potawatomi, ratified April 15, 1862 (12 Stat. 1191), and by the Treaty with the Potawatomi, ratified July 25, 1868 (15 Stat. 531); and
- (B) those Qualified Nation Lands described in (1) a Kansas Warranty Deed to the United States of America in trust for the Prairie Band Potawatomi Nation found in the Jackson County Register of Deeds Office in Book 305 of RB on pages 302-303, (2) a Kansas Warranty Deed to the United States of America in trust for the Prairie Band Potawatomi Nation found in the Jackson County Register of Deeds Office in Book 305 of RB on pages 587-588, (3) a Kansas Warranty Deed to the United States of America in trust for the Prairie Band Potawatomi Nation found in the Jackson County Register of Deeds Office in Book 500 on pages 234-235, and (4) a Kansas Warranty Deed to the United States of America in trust for the Prairie Band Potawatomi Nation found in the Jackson County Register of Deeds Office in Book 500 on pages 257-258.

“**Consumer**” shall mean the individual or entity purchasing or receiving Cigarettes or other Tobacco Products for final use.

“**Dispute**” shall have the meaning set forth for such term in Section 7.01(b).

“**Dispute Party**” shall have the meaning set forth for such term in Section 7.01(b).

- “**Effective Date**” shall have the meaning set forth for such term in Section 3.01.
- “**Escrow Statutes**” shall mean Chapter 50, Article 6a of the Kansas Statutes Annotated.
- “**Fire Safety Statutes**” shall mean Chapter 31, Article 6 of the Kansas Statutes Annotated.
- “**Indian Tribe**” shall mean 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.
- “**KDOR**” shall mean the Kansas Department of Revenue.
- “**KSAG**” shall mean the Office of the Attorney General of the State of Kansas.
- “**Licensed Distributor**” shall mean the Nation, any Nation Affiliate, or any individual or entity subject to the Nation’s regulatory and tax jurisdiction, in each case conducting business pursuant to a valid tobacco distributor license issued by the Nation.
- “**Licensed Retailer**” shall mean the Nation or any Nation Affiliate conducting business pursuant to a valid tobacco retailer license issued by the Nation.
- “**MSA**” shall mean the settlement agreement (and related documents) entered into on November 23, 1998 by the State and leading United States Tobacco Product Manufacturers; provided, however, that such term does not include the Secondary Settlement Agreement.
- “**Nation**” shall have the meaning set forth for such term in the initial paragraph.
- “**Nation Affiliate**” shall mean an entity directly or indirectly wholly owned by the Nation. Solely for purposes of this definition, the phrase “wholly owned by” means ownership of one hundred percent (100%) of an equity interest, or the equivalent thereof.
- “**Nation Claim Parties**” shall mean, collectively, the Nation, the Nation Tax Commission, and any Nation Affiliate to the extent such Nation Affiliate is either a Licensed Retailer or Licensed Distributor.
- “**Nation Tax Commission**” shall mean the Prairie Band Potawatomi Tax Commission, or such other successor commission, board, committee, council, department or agency charged under Nation law with administration and enforcement of Nation tax laws.
- “**NPM**” shall have the meaning set forth for the term “Non-participating manufacturer” in K.S.A. §50-6a07(g).
- “**Pack**” shall mean one package of either twenty (20) or twenty-five (25) Cigarettes.

“**Parties**” or “Party” shall have the meaning set forth for such terms in the initial paragraph.

“**PM**” shall mean a “participating manufacturer” as that term is used in the Escrow Statutes.

“**Qualified Tribal Lands**” shall mean:

- (1) All land within the borders of the 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 such reservation;
- (2) all dependent Indian communities within the borders of the State;
- (3) all Indian allotments within the borders of the 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 the 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.

“**Qualified Nation Lands**” shall mean the Nation’s Qualified Tribal Lands.

“**Rules**” shall have the meaning set forth in Section 7.02(b).

“**Sale**” (and any correlative term, such as “**Sell**,” “**Seller**,” or “**Sold**,” shall have the correlative meaning) shall mean any sale, barter, trade, exchange, or other transfer of ownership for value of Cigarettes or other Tobacco Products, no matter how characterized.

“**Secondary Settlement Agreement**” shall mean the 2003 NPM adjustment settlement agreement, which shall include the 2012 term sheet agreement, related to the MSA and to which State is a party.

“**State**” shall have the meaning set forth for such term in the initial paragraph.

“**Tobacco Product**” shall mean any product, including any component, part, or accessory, made or derived from tobacco that is intended for human consumption through smoking, chewing or both, including but not limited to Cigarettes, Cigarette tobacco, roll-your-own tobacco, smokeless tobacco, cigars, pipe tobacco, dissolvables, gels, waterpipe tobacco, and electronic cigarettes.

“**Tobacco Product Manufacturer**” shall mean an entity that after the Effective Date 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;

- (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 paragraphs (1) through (3) above. Solely for purposes of this definition, the term “affiliate” shall mean 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 the preceding sentence, the terms “owns,” “is owned” and “ownership” mean ownership of any 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.

“**Units Sold**” shall mean, 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 Lands 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, 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.

**Section 1.02. Other Definitional Provisions.**

- (a) All capitalized terms defined in this Compact shall have the defined meanings when used as a capitalized term in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein.
- (b) As used herein and in any certificate or other document made or delivered pursuant hereto or thereto, accounting terms not defined in Section 1.01, and accounting terms partially defined in Section 1.01 to the extent not defined, shall have the respective meanings given to them under generally accepted accounting principles or regulatory accounting principles, as applicable. To the extent that the definitions of accounting terms herein are inconsistent with the meaning of such terms under generally accepted accounting principles or regulatory accounting principles, the definitions contained herein shall control.
- (c) The words “**hereof**,” “**herein**” and “**hereunder**” and words of similar import when used in this Compact shall refer to this Compact as a whole and not to any particular provision of this Compact; and

Section, subsection, Schedule and Exhibit references contained in this Compact are references to Sections, subsections, Schedules and Exhibits in or to this Compact unless otherwise specified.

- (d) Unless otherwise specifically noted herein, any capitalized word or term used in this Compact but not otherwise expressly defined herein shall have the same meaning as the definition provided for such capitalized word or term in Chapters 50 and 79 of the Kansas Statutes Annotated as in effect on January 1, 2016.

## ARTICLE II GENERAL PROVISIONS

**Section 2.01. Purpose of Compact.** The purpose of this Compact is to prevent disputes between the Parties regarding possession, transport, distribution, and Sale of Cigarettes and other Tobacco Products, including but not limited to taxation and escrow collection, in the State of Kansas, on Compact Lands, and on other Qualified Tribal Lands to the extent set forth herein.

**Section 2.02. External Citations.** The citation to any State statute or regulation in this Compact refers to the version in effect on January 1, 2016, unless otherwise specifically provided herein or unless the Parties specifically agree in writing to a modification of the Compact.

**Section 2.03. Scope of Compact.** Unless otherwise specifically provided herein, the terms and provisions of this Compact shall only apply to Cigarettes and other Tobacco Products Sold on Compact Lands. Notwithstanding any term or provision herein to the contrary, the Parties agree and acknowledge that the terms and provisions of this Compact shall not apply in any respect, including but not limited to taxation and escrow collection, to (i) any Tobacco Product Manufacturer or manufacturer of other Tobacco Products owned or operated by Nation or any Nation Affiliate during the term of this Compact, or (ii) the possession, transport, distribution, purchase, or Sale of Cigarettes or other Tobacco Products manufactured or imported by any Tobacco Product Manufacturer or manufacturer of other Tobacco Products, in each case to the extent described in clause (i).

## ARTICLE III EFFECTIVE DATE; TERM

**Section 3.01. Effective Date.** Subject to the prior full execution by the Parties, ratification by Nation's Tribal Council by written resolution, approval by Nation's General Council under Nation's Constitution, and ratification by State through its legislation enacted by the State Legislature and publication in the Kansas Register, this Compact shall become effective on July 1, 2016 (the "Effective Date").

**Section 3.02. Term.**

- (a) This Compact shall have an initial term of ten (10) years subject to automatic renewal for successive ten (10) year terms absent a requested revision in writing by any Party on or before August 1 in the calendar year prior to calendar year of the expiration of the then-current term. The Parties shall negotiate such requested revisions in good faith for a period ending fifteen (15) days before expiration of the then current term; *provided, however*, that if the Parties are not able to reach agreement on such requested revisions by such date, the Parties may agree to extend the then-current term beyond the expiration date for so long as the Parties agree that further negotiations are warranted; *provided, further*, that following expiration of the initial or any extended negotiation period, either Party may provide written notice of termination of the Compact effective on the later to occur of the expiration date of the then-current term or two Business Days following the date of delivery of such written notice of termination without giving effect to any extension agreed to by the Parties. In the event that the Parties reach agreement on the requested revisions, such revisions shall be reflected in an amendment to this Compact consistent with Section 8.08. In any event, the terms and provisions of this Compact shall continue to apply and the Parties shall conduct themselves accordingly until such time either that such amendment is fully executed, ratified and effective or that termination of this Compact is effective.
- (b) Notwithstanding any provision of this Compact to the contrary, in the event that State is subject to a final, binding arbitration award or decision of a court of competent jurisdiction that the State is non-compliant or has violated the terms of the MSA or Secondary Settlement Agreement due to State's compliance with its obligations under this Compact, the Parties shall attempt to negotiate amendments to this Compact for a period of not less than 90 days following State's written notice to Nation of State's desire to initiate such negotiations. The Parties acknowledge that the purpose of such negotiations would be to amend the Compact in a manner acceptable to the Parties that would permit the State to comply with the terms and provisions of this Compact, the MSA, and the Secondary Settlement Agreement. If the Parties are unable to negotiate such amendments within such negotiation period, the State may terminate this Compact upon two weeks' prior written notice to the Nation. Termination of this Compact pursuant to this Section 3.02(b) shall not be subject to the dispute resolution provisions of Article VII.
- (c) In the event that the State is no longer subject to, or elects to withdraw from or cease performing under, the MSA and the Secondary Settlement Agreement, the Nation and the State may jointly agree in

writing to terminate this Compact prior to the expiration of the then-current term. If there is any modification to relevant State law or final judicial determination by a court of competent jurisdiction that negates the escrow deposit obligations pursuant to the Escrow Statutes, the State may terminate this Compact at any time thereafter by providing thirty days' written notice to Nation.

#### **ARTICLE IV MASTER SETTLEMENT AGREEMENT PROVISIONS**

##### **Section 4.01. Nation Obligations.**

- (a) Nation shall regulate all Sales of Cigarettes on Compact Lands and may regulate Sales of other Tobacco Products on Compact Lands. As part of such mandatory regulation of Sales of Cigarettes on Compact Lands, the Nation shall require, and enforce such requirement, that:
- (i) all Sales to ultimate Consumers of Cigarettes on Compact Lands by a Licensed Retailer shall be conducted pursuant to a valid Nation tobacco retailer license;
  - (ii) all Cigarettes Sold on Compact Lands by a Licensed Retailer shall be acquired from a Licensed Distributor;
  - (iii) each Licensed Retailer shall implement and maintain processes that verify receipt of all Cigarettes on Compact Lands substantiated and supported by contemporaneously created documentation, including but not limited to invoices, bills of lading, way bills and other documents, showing Cigarettes received by such Licensed Retailer by brand, quantity, date of receipt, and from whom such Licensed Retailer received such Cigarettes;
  - (iv) each Licensed Retailer shall implement and maintain processes that verify the number of Cigarettes Sold by such Licensed Retailer to Consumers on Compact Lands by contemporaneously created documentation, including register tapes or other indicia of retail Sale generated at the point of Sale or, with respect to vending machine Sales, stocking reports, in each case showing Cigarettes Sold by brand and quantity;
  - (v) each Licensed Retailer shall provide to the Nation Tax Commission, on a timely basis, reports, data, and documentation specified in clauses (iii) and (iv) above regarding retail sales of Cigarettes on Compact Lands in form and format sufficient to enable Nation to comply with its obligations pursuant to Section 4(b) and Section 4(c), and shall maintain such documentation in an adequate and accessible retention system for a period of not less than three years;



- (vi) each brand of Cigarettes Sold, offered for Sale, possessed for Sale, or imported for Sale on Compact Lands by a Licensed Retailer shall be a brand of an Approved Manufacturer and, subject to Section 4.01(e), shall bear indicia of excise tax payment as provided in Section 5.02;
- (vii) each Licensed Distributor shall apply indicia of excise tax payment as provided in Section 5.02 to each Pack of Cigarettes prior to delivery to a Licensed Retailer located on Compact Lands;
- (viii) each Licensed Distributor shall implement and maintain processes that verify delivery of all Cigarettes to Licensed Retailers on Compact Lands substantiated and supported by contemporaneously created documentation, including but not limited to invoices, bills of lading, way bills and other documents, showing Cigarettes delivered by brand, quantity, date of receipt, and to which Licensed Retailer such Cigarettes were delivered;
- (ix) each Licensed Distributor shall implement and maintain processes that, on a monthly basis, verify the number of items of indicia of payment of excise tax purchased from the Nation Tax Commission, as documented by a contemporaneously created, written receipt received from the Nation Tax Commission, the number of such items of indicia received by such Licensed Distributor, if different than the number purchased, the number of such items of indicia affixed to Packs of Cigarettes by such Licensed Distributor, the number of Packs of Cigarettes bearing such indicia delivered to Licensed Retailers as documented by one or more contemporaneously created, written statements from such Licensed Distributor, the number of such items of indicia that may be damaged, torn, mutilated or otherwise unusable and returned to the Nation Tax Commission, documented by a contemporaneously created, written receipt received from the Nation Tax Commission, the number of such items of indicia which are destroyed in accordance with Nation Tax Commission regulations, and the number of unaffixed items of such indicia which are on hand at such Licensed Distributor's premises, as documented by contemporaneously created, written inventory sheets;
- (x) each Licensed Distributor shall implement and maintain processes that verify monthly beginning and ending inventories of Packs of Cigarettes bearing indicia of payment of excise tax described in Section 5.02(a), as documented by

- contemporaneously created, written inventory sheets showing adjustments during such month for number of Packs of Cigarettes (A) to which such indicia were affixed, (B) received with such indicia affixed, (C) returned from Licensed Retailers, and (D) Sold to Licensed Retailers;
- (xi) with respect to each Licensed Distributor that maintains premises on Compact Lands, such Licensed Distributor shall implement and maintain processes that verify monthly beginning and ending inventories of Packs of Cigarettes not bearing any indicia of payment of excise tax, as documented by contemporaneously created, written inventory sheets showing adjustments during such month for number of Packs of Cigarettes (A) received without bearing any indicia of payment of excise tax, (B) to which indicia of payment of excise tax are affixed, in the aggregate and by specific jurisdiction, (C) Sold to the United States government, and (D) returned to a Tobacco Product Manufacturer;
  - (xii) each Licensed Distributor shall provide to the Nation Tax Commission, on a timely basis, reports, data, and documentation specified in clauses (viii), (ix), (x), and (xi) above regarding retail Sales of Cigarettes on Compact Lands in form and format sufficient to enable Nation to comply with its obligations pursuant to Section 4.01(b) and Section 4.01(c), and shall maintain such documentation in an adequate and accessible retention system for a period of not less than three years.

The Parties agree that United States generally accepted accounting principles (GAAP) shall, to the extent applicable, provide the appropriate standard for measuring the adequacy of the processes required by this Section 4.01.

- (b) Nation, through its Nation Tax Commission, shall collect from Licensed Retailers the documentation specified in clause (v) of Section 4.01(a), shall collect from Licensed Distributors the documentation specified in clause (xii) of Section 4.01(a), and shall retain all such documentation for a period of not less than three years.
- (c) Nation, through its Nation Tax Commission at Nation's sole expense, shall prepare and remit to KDOR data regarding Sales of Cigarettes on Compact Lands in the form and format and on the dates reasonably requested by KDOR from time to time and approved by the Nation Tax Commission, such approval not to be unreasonably withheld. Such data shall be prepared based upon the documentation gathered by the Nation Tax Commission pursuant to Section 4.01(b). Such data shall be remitted at the same frequency as comparable data

is required to be submitted to the State under applicable State law by State-licensed retailers or distributors of Cigarettes.

- (d) Nation, through its Nation Tax Commission, shall implement and maintain processes that verify the number of items of indicia of payment of excise tax delivered to the Nation pursuant to Section 5.02, as documented by a contemporaneously created, written receipt received from the State, the number of such items of indicia applied to Cigarettes delivered to Licensed Retailers as documented by one or more contemporaneously created, written statements from each Licensed Distributor, the number of such items of indicia that may be damaged, torn, mutilated or otherwise unusable and returned to the State, documented by a contemporaneously created, written receipt received from the State, the number of such items of indicia on hand from time to time at the Nation Tax Commission and each Licensed Distributor documented on contemporaneously created, written inventory sheets. Nation, through its Nation Tax Commission, shall retain all such documentation for a period of not less than three years.
- (e) On the Effective Date, the Nation Tax Commission shall seize as contraband all Cigarettes held for Sale by Licensed Retailers which do not satisfy the requirements of Section 4.01(a)(vi). Such contraband Cigarettes shall be destroyed subject to oversight by the Nation Tax Commission and KSAG. Notwithstanding any provision of this Compact to the contrary, all Packs of Cigarettes in the inventory of a Licensed Retailer on the Effective Date which bear either a Nation excise tax stamp or a State excise tax stamp shall be deemed to bear indicia of excise tax payment as provided in Section 5.02 for all purposes of this Compact.

**Section 4.02. State Obligations.**

- (a) Beginning with calendar year 2016 and each subsequent calendar year occurring in whole or in part during the term of this Compact, State will pay to Nation an amount equal to the product of (i) the total dollar amount disbursed to the State pursuant to the MSA and Secondary Settlement Agreement attributable to Sales of Cigarettes during such calendar year, multiplied by (ii) the quotient obtained by dividing (A) total PM brand Units Sold by Licensed Retailers on Compact Lands during such calendar year, by (B) total PM brand Units Sold in Kansas and on Qualified Tribal Lands, without duplication, during such calendar year. Each such payment shall be due within thirty days following State's receipt of any disbursement described in clause (i) above. Concurrently with making such payment to the Nation, the State shall provide Nation with appropriate documentation supporting computation of such payment.
- (b) If the KSAG takes the position that an Approved Manufacturer of

any brand of Cigarette Sold by Licensed Retailers on Compact Lands is not in compliance with any mandatory requirement of the Escrow Statutes or of the Fire Safety Statutes, the KSAG will notify the Nation and such Approved Manufacturer. If the matter is not resolved within 30 days of such notice, the Nation Tax Commission will prohibit the Sale of that brand family by Licensed Retailers on Compact Lands until the matter is resolved.

- (c) The KSAG shall not remove any Approved Manufacturer of any brand of Cigarette Sold by Licensed Retailers on Compact Lands from its directory of compliant Tobacco Product Manufacturers pursuant to K.S.A. §50-6a04(b)(8) prior to giving notice to Nation of, and negotiations regarding, such proposed removal in accordance with Section 7.01(b). For the avoidance of doubt, the foregoing shall not require initiation or completion of arbitration proceedings prior to removal.

## ARTICLE V TAX PROVISIONS

### **Section 5.01. Exercise of Tax Jurisdiction.**

- (a) The Nation shall have the sole right to impose, collect, and retain Sales taxes and excise taxes on transactions conducted by Licensed Retailers and Licensed Distributors involving Cigarettes and other Tobacco Products ultimately Sold to Consumers by Licensed Retailers on Compact Lands. Further, the Nation shall have the sole obligation hereunder to impose Sales taxes and excise taxes on such transactions to the extent described herein. With respect to such Cigarettes or other Tobacco Products, the State shall not impose any Sales tax, excise tax, privilege tax, use tax, other tax, licensing fee, user fee or other fee at any point in the stream of commerce:
  - (i) where the legal incidence of any such tax or fee falls on any such Consumer; or
  - (ii) which, if passed through in whole or in part to any such Licensed Retailer or Licensed Distributor, would have the effect of increasing such Licensed Retailer's or Licensed Distributor's cost of goods Sold;*provided, however*, for the avoidance of doubt, such restrictions shall not apply to escrow payments, directory fees, or any bond required under the Escrow Statutes with respect to such Cigarettes. The State shall take no affirmative action to enable or authorize any other individual or entity to take any action which, if taken directly by the State, would violate this Section 5.01(a).
- (b) Notwithstanding any provision of Section 5.01(c) to the contrary, the Nation shall levy upon the consensual Sale of Cigarettes by a Licensed Retailer to a Consumer on Compact Lands a tax computed as a percentage of the actual Sales price thereof exclusive of any rebates. For

purposes of the preceding sentence, such Sales tax shall be levied at a rate no lower than the lowest of (i) five percent (5%), or (ii) the Kansas Sales tax rate in effect at the time of such Sale less 1.5%; *provided, however*, that the fixed amount computed pursuant to this Section 5.01(b) shall not be less than \$0.00. Nothing in this Compact shall prohibit the Nation, in its sole discretion, from levying Sales tax on such Sales at a rate higher than that required in the preceding sentence.

- (c) Subject to Section 5.01(d), the Nation shall levy upon the consensual Sale of Cigarettes on Compact Lands an excise tax computed from time to time as a fixed amount per Carton of Cigarettes or fractional part thereof. For purposes of the preceding sentence, such fixed amount per Carton of Cigarettes shall be no lower than the lowest of (i) the lowest excise tax rate per Carton of Cigarettes levied or imposed at the time of computation pursuant to the laws of any of the states immediately bordering the State; (ii) the excise tax rate per Carton of Cigarettes levied or imposed at the time of computation pursuant to the laws of the State less \$11.20 per Carton of Cigarettes; or (iii) the lowest aggregate excise tax rate per Carton of Cigarettes levied or imposed at the time of computation by any Indian Tribe which is party to a Cigarette/Tobacco Product compact with the State; *provided, however*, that the fixed amount computed pursuant to this Section 5.01(c) shall not be less than \$0.01 per Carton. Nothing in this Compact shall prohibit the Nation, at its sole discretion, from levying excise tax on such Cigarettes in an amount higher than that required in the preceding sentence. Such excise tax shall be paid only once and shall be imposed on and paid by the Licensed Distributor which Sells Cigarettes to a Licensed Retailer for Sale to Consumers on Compact Lands. For the avoidance of doubt, the Nation shall not be required to levy such excise tax on any Sale of Cigarettes where the Licensed Distributor intends to Sell such Cigarettes outside Compact Lands.
- (d) Notwithstanding any other provision of this Compact to the contrary, the Nation shall levy upon the consensual Sale of roll-your-own tobacco on Compact Lands an excise tax of not less than 1% of the wholesale Sale price of such roll-your-own tobacco. Such excise tax shall be paid only once and shall be imposed on and paid by the Licensed Distributor at the time that the Licensed Distributor (a) brings or causes to be brought onto Compact Lands such roll-your-own tobacco for Sale on Compact Lands, (b) makes, manufactures, or fabricates such roll-your-own tobacco on Compact Lands for Sale on Compact Lands, or (c) ships or transports such roll-your-own tobacco to any Licensed Retailer on Compact Lands to be Sold by such Licensed Retailer on Compact Lands. For the avoidance of doubt,

the Nation shall not be required to levy such excise tax on any sale of roll-your-own tobacco where the Licensed Distributor intends to Sell such roll-your-own tobacco outside Compact Lands.

**Section 5.02. Indicia of Tax; Distribution and Transport.**

- (a) The Nation Tax Commission and KDOR shall jointly design and designate indicia of payment of the excise tax levied pursuant to Section 5.01(c). Such indicia shall include at a minimum the acronym “PBPB,” the word “Kansas,” and an inventory control number, code or other technology in a form and color mutually agreeable to the Nation Tax Commission and KDOR. Kansas shall produce, or cause to be produced, and deliver to the Nation Tax Commission all such indicia as may be required for Nation to comply with its obligations hereunder, including but not limited to Nation’s obligations pursuant to Section 4.01(a)(vi). In order to compensate State for production and delivery of such indicia, Nation shall pay to the State the fixed amount of One Hundred Fifty Thousand Dollars (\$150,000.00) on February 1, 2018 and each subsequent February 1 during the term of this Compact; *provided, however*, that Nation shall have no obligation to make such any such payment if Licensed Retailers, on an aggregate basis, do not Sell more than 175,000 Cartons of Cigarettes on Compact Lands during the immediately preceding calendar year. The Nation and the State expressly agree and acknowledge that such payments (1) constitute payments for goods and services provided by State to Nation, (2) do not represent the levy or payment of any tax imposed by the State on the Nation, any Nation Affiliate, any Licensed Distributor, any Licensed Retailer, or any Consumer, and (3) do not represent sharing of Nation tax revenues or business profits with the State. Such payments and State’s production and delivery of such indicia shall not be subject to any sales, excise or other tax imposed by either State or Nation.
- (b) For purposes of this Compact, the Parties agree that the following shall constitute contraband:
- (i) All Packs of Cigarettes, in quantities of 20 Cigarettes per Pack or more, not bearing indicia of payment of excise tax as required in this Compact and all devices for vending Cigarettes in which unstamped Packs are found;
  - (ii) all Cigarettes or Tobacco Products in the possession of a minor;
  - (iii) all property, other than vehicles, used in the retail Sale of Packs of Cigarettes described in clause (i);
  - (iv) any Cigarettes Sold, offered for Sale, or possessed for Sale on Compact Lands where such Cigarettes are not a brand of an Approved Manufacturer; and

- (v) any Cigarettes to which tax indicia has been affixed, was caused to be affixed, or the tax paid thereon as required by Section 5.01(c) or (d) of this Compact, where such Cigarettes are not a brand of an Approved Manufacturer.
- (c) Notwithstanding any provision of this Compact to the contrary, any Pack of Cigarettes Sold by a Licensed Retailer, in the possession of a Licensed Retailer, or in transit to a Licensed Retailer with proper bills of lading from a Licensed Distributor in each case bearing the indicia of payment of excise tax described in Section 5.02(a) shall be deemed to be bearing indicia of payment of State excise tax for all purposes of State law and, in any event, shall be deemed not to be a common nuisance or contraband pursuant to State law and not subject to seizure, forfeiture, confiscation or destruction pursuant to State law or process on grounds of non-payment of any State tax.
- (d) Notwithstanding any provision of this Compact to the contrary, any Cigarette in the possession of a Licensed Distributor with premises on Compact Lands or which are in transit, with proper bills of lading showing shipment from the relevant Tobacco Product Manufacturer or its importer to a Licensed Distributor with premises on Compact Lands, but in either case not bearing indicia of payment of excise tax pursuant to Section 5.02(a), or for which tax has not been paid pursuant to Section 5.01(d), shall be deemed not to be a common nuisance or contraband pursuant to State law and not subject to seizure, forfeiture, confiscation or destruction pursuant to State law or process, in each case on grounds of non-payment of State excise tax, if the related Tobacco Product Manufacturer is an Approved Manufacturer.
- (e) Any Tobacco Product, other than Cigarettes, which is in the possession of a Licensed Distributor with premises on Compact Lands or is in transit, with proper bills of lading showing shipment from the relevant manufacturer or its importer to a Licensed Distributor with premises on Compact Lands, but in either case not bearing indicia of payment of excise tax pursuant to Section 5.02(a), or for which tax has not been paid pursuant to Section 5.01(d), shall be deemed not to be a common nuisance or contraband pursuant to State law and not subject to seizure, forfeiture, confiscation or destruction pursuant to State law or process, in each case on grounds of non-payment of any State tax.
- (f) Any Tobacco Product, other than Cigarettes described in Section 5.02(c), in the possession of a Consumer which a Consumer can demonstrate was purchased from a Licensed Retailer, shall be deemed not to be a common nuisance or contraband pursuant to State law and not subject to seizure, forfeiture, confiscation or destruction pursuant to State law or process on grounds of non-payment of any State tax.

- (g) In the event KSAG or KDOR has actual knowledge that any Pack of Cigarettes described in Section 5.02(c) or (d) or any Tobacco Product described in Section 5.02(e) is seized or confiscated under color of State law or process as in effect from time to time, then KSAG or KDOR, as applicable, shall transmit written notice of such seizure or confiscation to the Nation within two Business Days of first acquiring such actual knowledge.
- (h) Notwithstanding any provision of this Compact to the contrary, the possession, gift, or use on Qualified Nation Lands of noncommercial privately produced tobacco for religious or ceremonial use shall be exempt from taxation by State and may be exempt from taxation by Nation. Such tobacco shall be deemed not to be a common nuisance or contraband pursuant to State law and not subject to seizure, forfeiture, confiscation or destruction as a common nuisance or contraband pursuant to State law or process, in each case on grounds of non-payment of any State tax. For purposes of this Section 5.02(h), “tobacco” shall mean any plant, including parts or products thereof, within the genus *Nicotiana* and which does not constitute a “controlled substance” within the meaning of 21 U.S.C. § 802(6).
- (i) For purposes of this Section 5.02 only, references to “State law” mean K.S.A. § 79-3323 and the Escrow Statutes as each may be amended from time to time.

## ARTICLE VI AUDITS AND INSPECTIONS

**Section 6.01. Purpose.** The purpose of this Article VI is to provide a process for regular verification of the requirements of this Compact. The verification process is intended to reconcile data from all sources that make up the stamping, Selling, and taxing activities under this Compact.

**Section 6.02. Nation to Contract with Third Party Auditor.** The Nation and the State agree that, for purposes of verifying compliance with this Compact, the Nation will contract with and retain an independent third party auditor (the “**Auditor**”). The Nation and the State shall each bear fifty percent (50%) of the costs of the auditing services. The Nation and the State shall be entitled to freely communicate with the Auditor; *provided, however*, that all information provided to the State by Auditor shall be provided directly to KDOR. The Nation shall select the Auditor, subject to the approval of the KSAG; *provided, further*, that such approval shall not be unreasonably withheld; *provided, further*, that the Nation’s selection of any Auditor possessing a valid Kansas Permit to Practice issued by the Kansas Board of Accountancy shall be deemed approved by the KSAG. The Auditor will review records on an annual calendar year basis to issue an annual report and certification as provided in this Article VI.



**Section 6.03. Audit Protocol.** To verify compliance with this Compact, the Auditor must adhere to the following protocol:

- (a) **Period Under Review.** The Auditor must review records for the calendar year under audit and may review records for earlier years that are after the Effective Date but only as necessary for an internal reconciliation of the relevant books. Subject to the foregoing, records relating to any period before the Effective Date are not open to review. In situations where the Auditor is responsible for verifying records on less than an annual basis, the period under review shall not include years previously reviewed by the Auditor, except when a violation is alleged to have occurred during the period previously reviewed.
- (b) **Records to be Examined.** The Auditor must review Nation Tax Commission books and records for records and invoices of stamp purchases, records and invoice of Sales of stamped Cigarettes, stamp inventory, the stamping process, products Sold, product inventory records, and such additional records as are necessary to verify (1) the Units Sold, (2) the retail Selling price, including application of Nation Sales and excise taxes, and (3) procedures demonstrating Nation's compliance with Sections 4.01 and 5.01 of this Compact, all with respect to Sales of Cigarettes by Licensed Retailers on Compact Lands. In all situations, the Auditor is not responsible for examining, and shall not examine, records that do not relate to the stamping, Selling, or taxing activities of the Nation, any Nation Affiliate, or Nation's licensees, unless a review of the records is necessary to an internal reconciliation of the books of the Nation, any such Nation Affiliate or any such licensee.
- (c) **Audit Standard.** Each audit performed pursuant to this Article VI shall be performed in accordance with generally accepted auditing standards.

**Section 6.04. Audit Report and Certification.** After each annual audit, the Auditor shall issue to KDOR and the Nation an audit report and a certification, as further described below, with respect to compliance with this Compact. The annual audit report shall set forth the total Units Sold attributable to each Tobacco Product Manufacturer by Licensed Retailers on Compact Lands during the relevant period. The annual audit report shall also include a certified statement of the Auditor to the KDOR that the Auditor finds the Nation to be in compliance with Sections 4.01 and 5.01 of this Compact or else that the Nation is in compliance except for specifically listed items that are explained in the annual report.

**Section 6.05. Audit Schedule.** Audit reviews shall take place following each calendar year (or portion thereof) during the term of this Compact, with an audit report submitted no later than April 1 following such calendar year.

**Section 6.06. Joint Audit Implementation and Review.** The Nation and the State shall meet jointly with the Auditor prior to the beginning of each annual audit. The purpose of such meeting will be to discuss the objectives of the upcoming audit, the expectations of the Nation and of the State, the standards to be used in such audit, and any issues regarding conduct of the audit, records pertinent to the audit or the contents of the Auditor's report. Subsequent meetings before and during the audit may be held as required. As soon as practicable after the issuance of the Auditor's report and certification, the Nation and the State may meet jointly with the Auditor as often as required to review the audit report and discuss any issue of concern. In the event that either the Nation or the State disagrees with the Auditor's report or certification, or any audit finding contained therein, either Party may notify the other of the disagreement and follow the procedures for resolution of the disagreement in Article VII of this Compact.

**Section 6.07. Inspections.**

- (a) The Parties agree that, subject to the requirements and limitations of this Section 6.07, agents or employees of the Nation Tax Commission and agents or employees of KSAG and/or KDOR will conduct joint inspections of Licensed Retailers and Licensed Distributors located on Compact Lands. In connection with any such joint inspection, the Nation Tax Commission shall permit such agents or employees of the Nation Tax Commission and agents or employees of KSAG and/or KDOR to review all documentation collected and maintained by the Nation Tax Commission pursuant to Section 4.01(b) and Section 4.01(d).

The agents or employees of the Nation Tax Commission and agents or employees of KSAG and/or KDOR shall agree to a random sampling methodology for each joint inspection based on generally recognized valid and reliable sampling techniques. The Parties further agree such joint inspections shall not involve complete audits or complete inventories but shall be limited to random sample inspections of stock, tax indicia, and documentation on hand at the premises of a Licensed Retailer or Licensed Distributor, as applicable, for the purposes of verifying that all Cigarettes offered or intended for Sale by any Licensed Retailer on Compact Lands (i) are solely brands of Approved Manufacturers, (ii) were acquired from a Licensed Distributor, and (iii) bear indicia of payment of excise tax to the extent required in Section 5.02. In any event, such joint inspections shall not be disruptive of the business operations of any Licensed Retailer or Licensed Distributor.

- (b) The State reserves the right hereunder to initiate and participate in up to twelve joint inspections described in Section 6.07(a) per calendar year, with a limit of up to two (2) such joint inspections per

calendar month; *provided, however*, that joint inspections of any one or more separate premises on the same Business Day shall only constitute one “joint inspection” for purposes of the preceding limitations; *provided, further*, that if the State and Nation inspection team notes any violations of this Compact by one or more Licensed Retailers or Licensed Distributors during any such joint inspection, the State may initiate, by giving notice in accordance with Section 6.07(c), one follow-up joint inspection with the Nation Tax Commission of all premises involved in such violations on a subsequent Business Day following the earlier of notice of completed cure or conclusion of any cure period pursuant to Section 7.01(a) related to such violations, with such follow-up joint inspection not counting against the monthly or annual limits set forth in this sentence.

- (c) The Nation Tax Commission shall make its personnel available for joint inspections permitted hereunder on a Business Day between the hours of 9:00 a.m. and 4:30 p.m. upon prior email notice to the Nation Tax Commission transmitted by a representative of the State by 10:00 a.m. one Business Day prior to the requested inspection. State representatives and Nation Tax Commission representatives shall coordinate the details of the joint inspection by 3:00 p.m. on the day of such email notice. Any email notice provided to the Nation Tax Commission pursuant to the Section 6.07 shall be given at tobacco.compact@pbpnation.org, or such other email address as the Nation may specify to the State by written notice.
- (d) Any Packs of Cigarettes found for Sale at a Licensed Retailer during a permitted joint inspection that are not brands of an Approved Manufacturer or that do not bear indicia of payment of excise tax as required in Section 5.02 shall be removed by the Nation Tax Commission until the matter is resolved.
- (e) This Section 6.07 does not limit the Nation from unilateral enforcement of its laws and regulations and does not authorize the State to unilaterally conduct inspections of Licensed Retailers or Licensed Distributors on Compact Lands; *provided, however*, that the State may conduct test purchases from Licensed Retailers located on Compact Lands and may conduct unobtrusive observation of those portions of Licensed Retailer and Licensed Distributor premises located on Compact Lands which are open to the general public.

## ARTICLE VII DISPUTE RESOLUTION

### **Section 7.01. General.**

- (a) In the event Nation is in default of its obligations pursuant to Section 4.01, Article V or Article VI of this Compact, Nation shall cure such default within thirty days following receipt of written notice of such

default from the State. Nation Tax Commission shall promptly provide written notice of completion of such cure to State. In the event Nation does not cure such default, the State may initiate dispute resolution procedures in accordance with the remainder of Article VII of this Compact.

- (b) For purposes of this Article VII, each of the State and the Nation may be referred to as a “**Dispute Party.**” Each Dispute Party warrants that it will use its best efforts to negotiate an amicable resolution of any and all disagreements, controversies or claims between any or all Nation Claim Parties and the State (each, a “**Dispute**”) arising out of or in connection with this Compact (including without limitation claims relating to the validity, construction, performance, breach and/or termination of this Compact). Negotiation pursuant to this Section 7.01(b) shall be commenced by one Dispute Party providing written notice to the other Dispute Party of the existence of a Dispute. The written notice shall provide a concise summary of the nature of the Dispute. Promptly following delivery of any such written notice, and in no event later than thirty (30) days following such delivery, the Governor of the State of Kansas and the Nation’s Chairperson, or their respective designees, shall commence good faith negotiations to resolve such Dispute(s). If the Dispute Parties are unable to negotiate an amicable resolution of any such Dispute within thirty (30) days following such commencement of good faith negotiations or such longer time period as the Dispute Parties may mutually agree in writing, either Dispute Party may submit the matter to arbitration for final resolution. Notwithstanding the foregoing or any other provision of this Compact to the contrary, either Dispute Party may immediately commence arbitration proceedings for the purpose of seeking emergency relief pursuant to the Rules addressing “Emergency Measures of Protection.”

**Section 7.02. Arbitration.**

- (a) *Initiation; Selection of Panel.* Subject to the requirements of Section 7.01, arbitration may be initiated by either Dispute Party by serving written notice to the other Dispute Party and by complying with the requirements of the Rules. Within seven days following initiation of the arbitration proceedings, each Dispute Party shall notify the other Dispute Party and the AAA of its disinterested and independent nominee for an arbitrator. If the Dispute Parties agree upon the nomination of a single arbitrator for the Dispute within ten days following initiation of arbitration, such nominee shall serve as sole arbitrator of the Dispute. If the Dispute Parties do not agree to a single arbitrator, the arbitration panel shall consist of three disinterested and independent arbitrators. In that event, the two arbitrators nominated by the Dispute Parties shall nominate the third disinterested and inde-

pendent arbitrator to serve with them. In the event the two arbitrators fail for any reason to name the third arbitrator within seven days, the AAA shall name the third arbitrator. In any event, such third arbitrator shall serve as chairperson of the arbitration panel. Notwithstanding the foregoing, the Rules shall govern the selection and number of arbitrators for any Dispute governed by the Emergency Measures of Protection or Expedited Procedures provisions of the Rules, or both.

- (b) *Rules; Federal Question; Choice of Law.* Except as the Dispute Parties may subsequently agree otherwise in writing, the arbitration shall be conducted and enforced in accordance with the Commercial Arbitration Rules and Mediation Procedures (the “**Rules**”) of the (“**AAA**”), as such Rules may be modified by this Compact, the Federal Arbitration Act, and to the extent not preempted by the Federal Arbitration Act, the Kansas Uniform Arbitration Act. The Parties agree and acknowledge that judicial resolution and enforcement of any Dispute or a settlement or arbitration decision issued hereunder with respect thereto, involves questions of federal law. The law governing any Dispute shall be limited to applicable federal law, the common law of the United States, and Kansas law, in that order and without reference to internal conflicts of laws principles.
- (c) *Proceedings.* Any arbitration shall be conducted at a place designated by the arbitration panel in Topeka, Kansas or any other location as the Dispute Parties may mutually agree in writing. Except for proceedings governed by the Rules on “Emergency Measures of Protection” or by the “Expedited Procedures” contemplated by the Rules, if applicable, the arbitration panel shall commence proceedings within 30 days of appointment of the final arbitrator, and hold proceedings providing each Dispute Party a fair opportunity to present its side of the Dispute, together with any documents or other evidence relevant to resolution of the Dispute. The arbitration decision shall be final and binding upon the Parties unless, during or following completion of the arbitration proceedings, the Dispute Parties have met and arrived at a different settlement of the Dispute. The arbitrators shall have the power to grant equitable or injunctive relief and specific performance of this Compact. The arbitrators shall not have the power to award monetary relief, including damages, penalties, or costs and expenses, including attorneys’ fees, to the extent not otherwise expressly permitted by the terms of this Compact. The Parties and the arbitrators shall maintain strict confidentiality with respect to the arbitration.
- (d) *Expenses.* The reasonable expenses of Dispute resolution shall be paid equally by the Dispute Parties, who shall also pay their own expenses; *provided, however*, that any Dispute Party who (1) fails or refuses to submit to arbitration following a proper demand by any

other Dispute Party, or (2) fails or refuses to voluntarily comply with the terms of any settlement or arbitration decision issued hereunder, shall bear all costs and expenses, including reasonable attorneys' fees, incurred by such other Dispute Party in compelling arbitration of any Dispute or enforcing any settlement or arbitration decision.

- (e) *Enforcement.* If enforcement of a settlement or arbitration decision becomes necessary by reason of failure of one or more Parties to implement its terms voluntarily, or if one of the Dispute Parties refuses to participate in arbitration as provided in this Section 7.02 and the other Dispute Party seeks enforcement of any provision of this Compact, the Parties agree that, subject to the limited waivers of sovereign immunity contained herein, the matter may be resolved by judicial resolution and enforcement and that venue for judicial resolution and enforcement shall be in the United States District Court for Kansas pursuant to the specific provisions of this Compact, in any other court of competent jurisdiction, and in any other court having appellate jurisdiction over any such court. In any such proceeding, service on any Dispute Party shall be effective if made by certified mail, return receipt requested to the address set forth in or otherwise designated pursuant to Section 8.06.

**Section 7.03. Limited Waivers by Nation.** The Nation hereby waives its sovereign immunity, its right to require exhaustion of tribal remedies, and its right to seek tribal remedies with respect to any Dispute, effective only if the Nation fails to implement the terms of a settlement or arbitration decision voluntarily or refuses to participate in arbitration, and subject to the following specific limitations:

- (1) *Limitation of Claims.* The limited waiver granted pursuant to this Section 7.03 shall encompass (A) claims which seek monetary relief for direct damages attributable to Nation's breach of this Compact and for costs and expenses, including reasonable attorneys' fees, to the limited extent provided in Section 7.02(d), (B) claims for equitable remedies, and (C) actions to compel Dispute resolution by arbitration or for enforcement of a settlement or arbitration decision as provided in this Article VII. Notwithstanding the foregoing or any other provision of this Compact to the contrary, such limited waiver shall in no event extend to or encompass claims which seek indirect, incidental, special, consequential, punitive, exemplary or reliance damages (including, without limitation, lost or anticipated revenues, lost business opportunities or lost Sales or profits, whether or not any Party has been advised of the likelihood of such damages) against Nation or any Nation Affiliate, and neither Nation nor any Nation Affiliate shall be liable for any such damages.
- (2) *Time Period.* The limited waiver granted pursuant to this Section 7.03 shall commence upon the Effective Date of this Compact and shall

continue until the date of its termination or cancellation pursuant to the terms of this Compact, except that the limited waiver shall remain effective for any proceedings then pending or initiated within 180 days following termination of this Compact for breach, and all permitted appeals therefrom.

- (3) *Recipient of Waiver.* The limited waiver granted pursuant to this Section 7.03 is granted to and for the sole benefit of the State, and may not be assigned or granted to any other individual or entity.
- (4) *No Revocation.* The Nation agrees not to revoke its limited waiver of sovereign immunity contained in this Section 7.03. In the event of any such revocation, the State may, at its option, declare this Compact terminated for breach by the Nation.
- (5) *Limitation Upon Damages.* Any monetary award or awards against the Nation shall be limited, in the aggregate, to an amount equal to total tax revenues and gross profits actually received by the Nation or Nation Affiliates attributable to the Sale of Cigarettes during the term of this Compact.
- (6) *Credit of the Nation and Nation Affiliates.* Except as otherwise expressly provided in this Section 7.03, the limited waiver granted pursuant to this Section 7.03 shall not implicate or in any way involve the credit of the Nation or any Nation Affiliate.

**Section 7.04. Limited Waiver by State.** The State hereby waives its sovereign immunity, effective only if the State fails to implement the terms of a settlement or arbitration decision voluntarily or refuses to participate in arbitration pursuant to this Compact, subject to the following specific limitations:

- (1) *Limitation of Claims.* The limited waiver granted pursuant to this Section 7.04 shall encompass (A) claims which seek monetary relief for direct damages attributable to State's breach of this Compact and for costs and expenses, including reasonable attorneys' fees, to the limited extent provided in Section 7.02(d), (B) claims for equitable remedies, and (C) actions to compel Dispute resolution by arbitration or for enforcement of a settlement or arbitration decision as provided in this Article VII. Notwithstanding the foregoing or any other provision of this Compact to the contrary, such limited waiver shall in no event extend to or encompass claims which seek indirect, incidental, special, consequential, punitive, exemplary or reliance damages (including, without limitation, lost or anticipated revenues, lost business opportunities or lost Sales or profits, whether or not any Party has been advised of the likelihood of such damages) against the State, and the State shall not be liable for any such damages.
- (2) *Time Period.* The limited waiver granted pursuant to this Section 7.04 shall commence upon the Effective Date of this Compact and shall

continue until the later of the date of its termination or cancellation pursuant to the terms of this Compact or the date on which the State has no surviving obligations pursuant to Section 8.02 and no surviving payment obligations pursuant to Section 4.02(a), except that the limited waiver shall remain effective for any proceedings pending on such date or initiated within 180 days following termination of this Compact for breach, and all permitted appeals therefrom.

- (3) *Recipient of Waiver.* The limited waiver granted pursuant to this Section 7.04 is granted to and for the sole benefit of the Nation (for itself and the other Nation Claim Parties), and may not be assigned or granted to any other individual or entity.
- (4) *No Revocation.* The State agrees not to revoke its limited waiver of sovereign immunity contained in this Section 7.04. In the event of any such revocation, the Nation may, at its option, declare this Compact terminated for breach by the State.
- (5) *Limitation Upon Damages.* Any monetary award or awards against the State shall be limited, in the aggregate, to an amount equal to total tax revenues and gross profits actually received by the Nation or Nation Affiliates attributable to the Sale of Cigarettes during the term of this Compact.

## ARTICLE VIII MISCELLANEOUS

### **Section 8.01. Other Compacts.**

- (a) During the Term of this Compact, State may enter into and be party to one or more compacts or other agreements regarding possession, transport, distribution, or Sale of Cigarettes or other Tobacco Products, including but not limited to taxation and escrow collection, with the Iowa Tribe of Kansas and Nebraska, the Kickapoo Tribe in Kansas, or the Sac and Fox Nation of Missouri in Kansas and Nebraska.
- (b) State shall not enter into or be party to any such compact or agreement with any Indian Tribe during the Term of this Compact, except as otherwise provided in Section 8.01(a).

**Section 8.02. Confidentiality.** All information provided hereunder to the State shall be provided directly to KDOR and shall be treated as confidential pursuant to K.S.A. 2015 Supp. Sections 50-6a11(e), 50-6a11(f), and 75-5133; *provided, however*, that the State is permitted to provide or share such information pursuant to K.S.A. 2015 Supp. Sections 50-6a11(a) or 75-5133(b)(19).

**Section 8.03. No Concessions.** By entering into this Compact, the Parties acknowledge and agree that, except as expressly provided herein, the Nation does not concede that: (a) the laws of the State, including any taxation or civil regulatory laws, apply to the Nation, its members or any Nation Affiliate regarding activities and conduct on Qualified Nation



Lands or otherwise within the Nation's jurisdiction; or (b) the Qualified Nation Lands are located in or within the State or are otherwise part of the State. By entering into this Compact, the Parties acknowledge and agree that, except as expressly provided herein, the State does not concede that its interests, jurisdiction or sovereignty, as authorized, permitted or recognized by federal law, is diminished, limited or preempted in any manner.

**Section 8.04. Most-Favored Nation.** The State agrees that Nation may propose an amendment to this Compact by written notice to the State based upon any provision of a compact permitted by Section 8.01 which Nation desires to include as a provision in this Compact. If the State Legislature does not approved such proposed amendment at the legislative session next following the Nation's request for such amendment, Nation may terminate this Compact at any time thereafter by providing thirty days' written notice to State.

**Section 8.05. Construction.**

- (a) Each Party has received independent legal advice from its attorney(s) of choice and neither Party shall be deemed the author or drafter of this Compact. Therefore, any rule or canon of construction (whether pertaining to contracts, statutes, treaties or otherwise) that, in the case of an ambiguity, such ambiguity is construed against the author or drafter is not applicable. The language of all parts of this Compact shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties. It is the intent of the Parties that this Compact shall be construed to reflect that the Parties are of equal stature and dignity and have dealt with each other at arm's-length. Accordingly, any statutory or judicial rules or canon concerning the construction of vague or ambiguous terms (whether pertaining to contracts, statutes, treaties or otherwise) that might otherwise be used in the interpretation or enforcement of this Compact, including construction of ambiguities either in favor of or against a state or Indian Tribe, is not applicable to this Compact and shall not obtain to the benefit or detriment of any Party, nor shall the terms and conditions of this Compact be extended by implication to the benefit or detriment of any Party, it being the intent of the Parties that the construction of this Compact shall be controlled by its express terms and not by implication.
- (b) The Article, Section and other headings contained in this Compact are for reference purposes only and shall not affect the meaning or interpretation of this Compact.

**Section 8.06. Notice.** Except as otherwise expressly provided in Section 6.07(c), any notices or communications required or permitted to be given hereunder shall be in writing and shall be sent by manual delivery, overnight courier or United States certified mail (postage prepaid and

return receipt requested) addressed to the respective Party at the address specified below, or at such other address as such Party shall have specified to the other Parties hereto in writing.

If to the Nation:

Chairperson and Tribal Council  
Prairie Band Potawatomi Nation  
16281 Q Road, Mayetta, KS 66509

with a copy to:

Russell A. Brien  
Brien Law, LLC  
15026 114th St.  
Oskaloosa, KS 66066

If to the State:

Office of the Governor  
300 SW 10th Ave., Ste. 241S  
Topeka, KS 66612-1590

with copies to:

Office of the Kansas Attorney General  
120 SW 10th Ave., 2nd Floor  
Topeka, KS 66612-1597

and

Secretary of Revenue  
915 SW Harrison Street, Second Floor  
Topeka, KS. 66612-1588

All periods of notice shall be measured from, and such notices or communications shall be deemed to have been given and received on, the date of delivery as evidenced by the signed receipt of such notice or communication by the addressee or its authorized representative.

**Section 8.07. Limited Purpose.** Nothing in this Compact shall be deemed to authorize the State to regulate or tax the Nation, its members, or any Nation Affiliate or to interfere with the Nation's government or internal affairs. This Compact shall not alter, limit, diminish or preempt Nation, federal or State sovereignty, authority, civil adjudicatory jurisdiction or criminal jurisdiction, except as expressly provided herein. Subject to Section 2.03 and the provisions of this Compact regarding Approved Manufacturers, nothing in this Compact shall require that the Nation, any Nation Affiliate, or any Licensed Retailer or Licensed Distributor obtain or maintain any license from, or otherwise submit to the jurisdiction of, the State. Nothing in this Compact shall constitute a stipulation by any party as to the actual boundaries of Nation's federally-established reservation.

**Section 8.08. Entire Agreement; Amendments.** This Compact constitutes the entire understanding between the Parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between or among the Parties, with respect to the subject matter hereof. Subject to Section 8.04, this Compact can only be amended or modified with the same formality required to make the original Compact valid and enforceable.

**Section 8.09. No Assignment; Beneficiaries.** This Compact is personal in nature, and no Party may directly or indirectly assign or transfer it by operation of law or otherwise. Nothing in this Compact, express or implied, is intended to or shall confer upon any individual or entity, other than the Parties hereto, any right, benefit or remedy of any nature whatsoever under or by reason of this Compact; *provided, however*, that subject to the terms and provisions of Article VII, each Nation Claim Party (other than the Nation) is an express third-party beneficiary of this Compact.

**Section 8.10. Survival.** Upon the termination or cancellation of this Compact, the obligations of the parties hereunder shall terminate, except that the provisions of Sections 7.01, 7.02, 7.03, 7.04, and 8.02 shall survive such termination or cancellation and the State’s payment obligations pursuant to Section 4.02(a) shall survive such termination or cancellation only until satisfaction of such obligations.

**Section 8.11. Severability.** The terms, provisions, agreements, covenants and restrictions of this Compact are non-severable and, unless otherwise agreed to by the Parties, this Compact shall terminate if any term, provision, agreement, covenant or restriction in this Compact is held by a court of competent jurisdiction or other authority to be invalid, void, or otherwise unenforceable. In the event either Party has actual knowledge that the validity or enforceability of this Compact or any of its terms, provisions, agreements, covenants or restrictions are being challenged in a court of competent jurisdiction or other authority, such Party shall transmit written notice thereof to the other Party within three Business Days of acquiring such actual knowledge. The Parties agree to reasonably cooperate with each other and oppose any such challenge.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Compact as of the respective dates indicated below.

**Prairie Band Potawatomi Nation      State of Kansas**

By: Liana Onnen, Chairperson

By: Sam Brownback, Governor

Date: February 17, 2016

Date: February 17, 2016



## CHAPTER 39

## SENATE BILL No. 485\*

AN ACT concerning tribal-state compacts; approving a compact between the Iowa Tribe of Kansas and Nebraska and the state of Kansas; relating to cigarette and tobacco sales and taxation.

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

Section 1. (a) The compact relating to cigarette and tobacco sales and taxation between the Iowa Tribe of Kansas and Nebraska and the state of Kansas submitted by the governor to the senate and the house of representatives of the state of Kansas and received and printed in the journal of the senate and the journal of the house of representatives on March 2, 2016, is hereby approved and adopted by reference as the law of this state.

(b) The secretary of the senate is directed to send a copy of such compact to the secretary of state. The secretary of state shall cause such compact to be published in the Kansas register.

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

Approved April 6, 2016.

Published in the *Kansas Register* April 21, 2016.

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**COMPACT RELATING TO CIGARETTE AND  
TOBACCO SALES AND TAXATION**

**ARTICLE I  
PURPOSE AND INTENT**

WHEREAS, it is in the best interests of the State of Kansas (hereinafter, Kansas) to continue to reduce the financial burdens imposed on Kansas by cigarette smoking and that said costs continue to be borne by tobacco product manufacturers rather than by Kansas to the extent that such manufacturers either determine to enter into a settlement with Kansas or are found culpable by the courts; and,

WHEREAS, On November 23, 1998, leading United States tobacco product manufacturers (hereinafter, PMs) entered into a settlement agreement, entitled the “master settlement agreement,” (hereinafter, MSA) with Kansas. The MSA obligates these PMs, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to Kansas (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing

practices and corporate culture, with the intention of reducing underage smoking; and,

WHEREAS, it would be contrary to the policy of Kansas if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that Kansas will have an eventual source of recovery from them if they are proven to have acted culpably; and,

WHEREAS, Kansas entered into a settlement agreement with certain PMs settling Kansas' obligations under the MSA and the 2003 NPM adjustment settlement agreement, including the 2012 term sheet agreement; and,

WHEREAS, as part of said settlement, Kansas has agreed to undertake certain diligent enforcement efforts of its cigarette and tobacco laws and more specifically, its MSA laws on qualified tribal land in Kansas ("*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; and (3) all Indian allotments in 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*); and,

WHEREAS, Kansas recognizes the importance to Kansas of forming an alliance with the Iowa Tribe of Kansas and Nebraska (hereinafter, Tribe) to assist Kansas in its diligent enforcement efforts; and,

WHEREAS, Kansas further recognizes that the Tribe will incur certain economic costs in assisting Kansas in its diligent enforcement efforts for which the Tribe should not be required to endure; and,

WHEREAS, it is altogether just and proper that Kansas compensate the Tribe for its assistance to Kansas in Kansas' diligent enforcement obligation under the MSA and the 2003 NPM adjustment settlement agreement, including the 2012 term sheet agreement; and,

WHEREAS, the Tribe is a federally recognized Indian Tribe with its reservation located within the geographical boundaries of the State of Kansas, possessing inherent powers of self-government, exercising sovereign powers over its members and their property within the boundaries of the Tribe's reservation, as defined and recognized by treaty and federal laws and federal court decisions, and recognized by state laws and state

court decisions, and that it has responsibilities and needs similar to those of state governments; and,

WHEREAS, the State of Kansas is an independent sovereign state within the United States of America possessed of full powers of state government, possessing inherent powers of self-government, exercising sovereign powers over its citizens and their property within the boundaries of the state, as defined and recognized by federal laws and federal court decisions, and recognized by state laws and state court decisions, and that it has responsibilities and needs similar to those of the national government; and,

WHEREAS, Kansas and the Tribe respect the sovereignty of the other, and recognize and support each other's governmental responsibilities to provide for and govern its citizens, members and territory; Kansas recognizes the Tribe's inherent sovereign right to existence, self-government and self-determination; the Tribe recognizes the Kansas's inherent sovereign right to existence, self-government and self-determination; and, WHEREAS, federal and state law recognizes Kansas' authority to collect state taxes on cigarettes and tobacco products sold to non-tribal members on the Tribe's reservation, whether sold by the Tribe, or businesses owned or controlled by the Tribe, or not; and,

WHEREAS, federal law recognizes the Tribe's authority to sell cigarettes and tobacco products to its tribal members on the Tribe's reservation free from Kansas taxation.

## ARTICLE II

### TERMS AND CONDITIONS

NOW, THEREFORE, the Tribe, by and through its duly elected Executive Committee and Kansas, by and through its duly elected Governor and Legislature do hereby enter into this Compact, the terms of such Compact to commence upon approval by the Executive Committee of the Iowa Tribe of Kansas and Nebraska (the "Executive Committee"), and enactment by the Kansas Legislature and publication in the Kansas Register, to-wit:

1. Kansas and the Tribe agree that as used herein the Tribe's reservation shall mean only the land that comprises that portion of the Tribe's reservation as established by the treaty between the United States and the Tribe dated the seventeenth day of May, 1854, that: (a) is within the boundaries of the State of Kansas; and, (b) is unaffected by the treaty between the United States and the Sauk and Foxes dated the sixth day of March, 1861, to the extent such treaty reduced the land set aside for the Tribe pursuant to the prior treaty dated the seventeenth day of May, 1854, and specifically excludes any portion of the Tribe's reservation that is not within the boundaries of the State of Kansas. For the purposes of this Compact, the Tribe's reservation shall also not include any lands that are inside the boundaries of the State of Kansas, but are outside the boundaries of the Tribe's reservation established by the 1854 Treaty that have been, or may at any time be taken into trust by the United States.

2. Unless otherwise expressly stated, Kansas and the Tribe agree that K.S.A. 2015 Supp. §50-6a01, and amendments thereto, and K.S.A. 2015 Supp. §79-3301, and amendments thereto apply to the provisions of this Compact. For the purposes of this Compact, only, and for no other purpose whatsoever, Kansas and the Tribe agree that the Tribe's Treaties with the United States do not exempt, exclude or reserve the Tribe's land from the boundaries of Kansas. For the purposes of this Compact, only, and for no other purpose whatsoever, the Tribe's Reservation is within the State of Kansas.
3. Tribe agrees to not purchase any cigarettes or tobacco products from any distributor, manufacturer, importer or wholesale dealer not licensed by Kansas for sale by the Tribe in Kansas, nor offer for sale in Kansas, possess for sale or import into Kansas for sale, cigarettes of a cigarette product manufacturer brand family not included in the directory maintained by the Kansas Attorney General. The Kansas Attorney General shall give the Tribe written notice to discontinue sale of any cigarettes or tobacco products being sold by the Tribe that are not included in the directory. The Tribe shall have ninety (90) days from and after receipt of the written notice within which to sell or otherwise dispose of the Tribe's existing inventory of the product(s) subject of such notice. The Tribe shall not order new or replacement inventory of the product(s) subject of the notice within such ninety (90) day period.

Nothing in this section shall prohibit the Tribe from licensing and regulating any distributor, manufacturer, importer or wholesale dealer doing business with the Tribe on its reservation, but the Tribe recognizes that its exercise of regulatory authority over a distributor, manufacturer, importer or wholesale dealer does not preempt Kansas from also exercising its regulatory authority over the same distributor, manufacturer, importer or wholesale dealer, including, where applicable, the power to tax.

Except for "Sacred Tobacco," which shall not be subject to the terms of this Compact, Tribe agrees that if it manufactures, or authorizes the manufacture of cigarettes or tobacco products on its reservation for sale in Kansas such products shall be subject to the terms of this Compact. For purposes of this Compact, Sacred Tobacco shall mean *nicotiana quadrialvis* and *nicotiana rustica* neither of which is a controlled substance or otherwise regulated by Kansas or Federal Law.
4. Tribe will be responsible for regulating and enforcing Compact with respect to sales at retail of cigarettes and tobacco products in Tribe's retail outlets on the Tribe's reservation.
5. Tribe will require all sales of cigarettes and tobacco products on Tribe's reservation to be conducted pursuant to a valid retail license issued by the Tribe.

6. Tribe agrees to require all cigarettes and tobacco products provided for sale on the Tribe's reservation will only be acquired from manufacturers compliant with Kansas statute and on the Attorney General's approved list.
7. Kansas and the Tribe agree that each pack of cigarettes the Tribe sells in Kansas shall bear a joint Kansas-Tribal tax stamp that will be designed jointly by the Tribe and Kansas.
  - a. Said stamp shall bear the name "Iowa Tribe" and "Kansas" and a logo in a form and color mutually agreeable to both the Tribe and Kansas;
  - b. Kansas shall cause said stamps to be produced at its sole expense;
  - c. Kansas and the Tribe shall select a mutually agreeable in-state third party distributor, and the Tribe shall cause all cigarettes it purchases for sale in Kansas to be shipped to said third party distributor at its sole expense;
  - d. Kansas shall provide said joint Kansas-Tribal stamps to said third party distributor who shall be responsible for affixing said Kansas-Tribal stamps on all cigarettes to be sold by the Tribe in Kansas;
  - e. Said third party distributor shall ship all cigarettes bearing joint Kansas-Tribal stamps to the Tribe at the Tribe's sole expense; and,
  - f. The costs incurred by the Tribe associated with this paragraph shall be added to the economic costs of the Tribe in Paragraph Fifteen (15) below that Kansas agrees is part of the diligent enforcement expenses for which it must reimburse the Tribe.
8. Tribe agrees to collect and timely share with Kansas, subject to third party audit, data regarding retail sales by Tribe on Tribe's reservation. Data shall be collected and provided to the Kansas Department of Revenue, at the Tribe's sole expense, on a monthly basis in a manner that conforms to data provided to Kansas by all other entities that currently collect and file data with Kansas, and shall be filed electronically in a format as required by Kansas of all other reporting entities.
9. Tribe and Kansas shall select a third party auditor for purposes of verifying compliance with this Compact. For purposes of verifying compliance with this Compact, the parties agree to jointly retain said Auditor and shall each bear fifty percent (50%) of the costs of the auditing services. The Auditor must possess a valid Kansas Permit to Practice issued by the Kansas Board of Accountancy. The Tribe and State shall be entitled to freely communicate with the Auditor. The Auditor will review records on an annual calendar year basis and issue an annual report and certification as provided herein.



- a. Audit Protocol. To verify compliance with this Compact, the Auditor must adhere to the following protocol:
- b. Period Under Review. The Auditor must review records for the calendar year under audit and may review records for earlier years that are after the Effective Date but only as necessary for an internal reconciliation of the relevant books. Subject to the foregoing, records relating to any period before the Effective Date are not open to review. In situations where the Auditor is responsible for verifying records on less than an annual basis, the period under review shall not include years previously reviewed by the Auditor, except when a violation is alleged to have occurred during the period previously reviewed.
- c. Records to be Examined. The Auditor must review records and invoices of stamp purchases, records and invoice of sales of stamped cigarettes, stamp inventory, the stamping process, products sold, product inventory records, and such additional records as are necessary to verify (1) the Units Sold (2) the retail selling price, including application of Tribal sales and excise taxes, and (3) procedures demonstrating the Tribe's compliance with this Compact, all with respect to sales of Cigarettes by the Tribe. In all situations, the Auditor is not responsible for examining, and shall not examine, records that do not relate to the stamping, selling, or taxing activities of the Tribe.
- d. Audit Report and Certification. After each annual audit, the Auditor shall issue an audit report and a certification, as further described below, with respect to compliance with this Compact. The annual audit report shall set forth the total Units Sold attributable to each manufacturer by the Tribe during the relevant period. The annual audit report shall also include a certified statement of the Auditor to the Kansas Attorney General that the Auditor finds the Tribe to be in compliance with this Compact or else that the Tribe is in compliance except for specifically listed items that are explained in the annual report.
- e. Audit Schedule. Audit reviews shall take place following each calendar year (or portion thereof) during the term of this Compact, with an audit report submitted no later than April 1 following such calendar year.
- f. Joint Audit Implementation and Review. The Tribe and the State shall meet jointly with the Auditor prior to the beginning of each annual audit. The purpose of such meeting will be to discuss the objectives of the upcoming audit, the expectations of the Tribe and of the State, the standards to be used in such audit, and any issues regarding conduct of the audit, records pertinent to the audit or the contents of the Auditor's report.

The Tribe and State agree that the report will audit the processes, controls and the supporting documentation of the Tribe's purchases and sales of cigarettes and tobacco products using both Generally Accepted Auditing Standards and Generally Accepted Accounting Principles. Subsequent meetings before and during the audit may be held as required. As soon as practicable after the issuance of the Auditor's report and certification, the Tribe and the State may meet jointly with the Auditor as often as required to review the audit report and discuss any issue of concern. In the event that either the Tribe or the State disagrees with the Auditor's report or certification, or any audit finding contained therein, either Party may notify the other of the disagreement and follow the procedures for resolution of the disagreement in Article III, Paragraph 1 of this Compact.

- g. Tribe agrees that Kansas is allowed to enter its retail outlets and inspect its cigarette stock, invoice and inventory of tax indicia on hand to insure that the cigarettes offered by Tribe for sale in Kansas are solely brands that are on the Attorney General's approved list and bear Kansas tax indicia. Any cigarettes found for sale at Tribe's retail outlets that are not on the Attorney General's approved list or bearing Kansas tax indicia shall be jointly removed by the Tribe and Kansas and destroyed.
10. Tribe shall enjoy exclusive cigarette and tobacco excise tax on all cigarette and tobacco sales by Tribe on Tribe's reservation. As part of the consideration for this Compact, Kansas agrees that cigarette and tobacco sales on the Tribe's Reservation shall not be subject to the Kansas cigarette and tobacco excise tax.
11. The Tribe has the right to impose its tribal tax on its members on its reservation and the Kansas cigarette and tobacco tax does not apply on said sales. Kansas has the right to impose its cigarette and tobacco taxes on the wholesale dealer of first receipt, and the Tribe's tax does not preempt or otherwise impede or interfere with Kansas' tax.
12. Kansas and the Tribe jointly agree to waive their respective rights to taxation identified in paragraph 11 above, and instead, agree to apply paragraphs 11 and 13 herein.
13. Tribe's cigarette tax shall be no lower than 17 cents per individual pack of cigarettes, or \$1.70 per carton of ten (10) packs of cigarettes for the term of this Compact.
14. Kansas agrees to reimburse the Tribe for the economic cost incurred by the Tribe in assisting the Kansas in its ongoing diligent enforcement efforts under the MSA and 2012 Term Sheet Settlement. Reimbursement shall be as follows:

- a. \$30,000.00 to be received by the Tribe on or before the end of each calendar quarter (March 31, June 30, September 30 and December 31) during the initial five (5) year term of this Compact.
  - b. In the event this Compact continues for additional five (5) year terms, the quarterly payment amount shall be increased fifteen percent (15%) over the quarterly payment amount payable during the immediately prior five (5) year period.
15. As additional consideration to reimburse the Tribe for the economic cost incurred by the Tribe in assisting the State in its ongoing diligent enforcement efforts under the MSA and the 2003 NPM adjustment settlement agreement, including the 2012 term sheet agreement, the following shall be exempt from tax imposed by the Kansas Retailers' Sales Tax Act, K.S.A. 79-3601 *et seq.* and amendments thereto: all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the Iowa Tribe of Kansas and Nebraska, a federally recognized Indian Tribe, and used exclusively for Tribal purposes.

### **ARTICLE III GENERAL PROVISIONS**

1. Dispute Resolution
  - a. General. Each party warrants that it will use its best efforts to negotiate an amicable resolution of any dispute between the Tribe and Kansas arising from this Compact whether as to the construction or operation thereof or the respective rights and liabilities of the Tribe and Kansas thereunder. If a party perceives itself to be aggrieved under this Compact, said party shall provide written notice of such perceived violation to the other party within thirty (30) days of the perceived violation or violations. The notice shall identify the specific Compact provision or provisions allegedly violated, or in dispute, the date or dates of violation, and shall specify in sufficient detail the asserting party's contention and all factual basis for each claim. The parties agree to cooperatively and promptly investigate and cure any such violations, to the extent possible, prior to providing a notice of breach of this Compact.
  - b. Negotiation. Upon written notice by either party of being unable to cure an issue under Article III 1. A. above, the Governor and Tribe's Chairperson, or their respective designees, shall commence good faith negotiations to resolve the dispute within thirty (30) days or such longer period as mutually agreed in writing by both parties. If the Tribe and Kansas are unable to

negotiate an amicable resolution of a dispute under this paragraph, then the aggrieved party shall issue a final written notice of intent to refer the matter to arbitration under this section.

- c. Arbitration. Arbitration may be initiated by any signatory to this Compact by serving written notice to the other signatories at the addresses noted herein. Within seven (7) days thereafter, each party shall notify the other party of its nominee for an arbitrator. If Tribe and Kansas can agree upon the nomination of a single arbitrator for the dispute, such person shall serve as sole arbitrator of the dispute. If the Tribe and Kansas do not agree upon the nomination of a single arbitrator, each party's nominee shall serve as arbitrator upon a panel of three, and those two arbitrators shall nominate the third to serve with them. In the event the two arbitrators fail for any reason to name the third arbitrator within two weeks after the nomination of the last nominated one of them, either nominee shall be entitled to ask the American Arbitration Society to name the third arbitrator. The arbitrators shall commence proceedings within thirty (30) days after their appointment, and hold proceedings providing each party a fair opportunity to present its side of the dispute, together with any documents or other evidence relevant to resolution of the dispute. The arbitration decision shall be signed by the arbitrators and shall be made within thirty (30) days after all evidence relevant to resolution of the dispute has been received by the arbitrators, but no later than forty-five (45) days after proceedings are commenced. The arbitration decision shall be final and binding upon the Tribe and Kansas unless, during or following completion of the arbitration proceedings, the Tribe and Kansas have met and arrived at a different settlement of the dispute.
- d. Enforcement. If enforcement of a settlement or arbitration decision becomes necessary by reason of failure of one or both parties to implement its terms voluntarily, or if one of the parties refuses to participate in arbitration as provided in this Section and the other party seeks enforcement of any provision of this Compact, the Tribe and Kansas agree that the matter may be resolved by judicial resolution and enforcement and that venue for judicial resolution and enforcement shall be in the United States District Court for Kansas pursuant to the specific provisions of this Section.
- e. Expenses of Dispute Resolution or Judicial Enforcement Between the Tribe and Kansas. Each party shall be responsible for their own expenses of dispute resolution by arbitration or judicial enforcement, unless the parties agree otherwise.

2. Waiver of Sovereign Immunity by the Tribe and Rights to Tribal Remedies. The Tribe hereby waives its sovereign immunity, its right to require exhaustion of tribal remedies, and its right to seek tribal remedies with respect to any dispute over this Compact, subject to the following specific limitations:
  - a. Limitation of Claims. The waiver granted herein shall encompass only claims for remedies, dispute resolution by arbitration or judicial enforcement provided in this Compact, and may not encompass claims which seek monetary relief, including but not limited to damages, penalties or attorney's fees.
  - b. Time Period. The waiver granted herein shall commence upon publication of this Compact in the Kansas Register and shall continue until the date of its termination pursuant to the terms of this Compact or cancellation, except that the waivers shall remain effective for any proceedings then pending and all appeals therefrom.
  - c. Recipient of Waiver. The waiver of sovereign immunity is limited to the State of Kansas.
  - d. Enforcement. Tribe agrees to waive its sovereign immunity from a judgment or order which is final because either the time for appeal thereof has expired or the judgment or order issued by a court having final appellate jurisdiction over the matter. Tribe agrees to accept and be bound by any order or judgment of the United States District Court for Kansas or any other court having appellate jurisdiction over such Court. Further, Tribe waives its sovereign immunity as to enforcement in any federal court of any such final judgment against Tribe.
  - e. Service of Process. In any such suit, Tribe agrees that service on Tribe shall be effective if made by certified mail, return receipt requested at the addresses set forth herein.
  - f. Guarantee of Tribe Not to Revoke Waiver of Sovereign Immunity. Tribe agrees not to revoke its waiver of sovereign immunity contained in this Compact. In the event of any such revocation, Kansas may, at its option, declare this Compact terminated for breach by Tribe.
3. Waiver of Sovereign Immunity by Kansas. Kansas hereby waives its sovereign immunity.
  - a. Limitation of Claims. The waiver granted herein shall encompass only claims for remedies, dispute resolution by arbitration or judicial enforcement provided in this Compact, and may not encompass claims which seek monetary relief, including but not limited to damages, penalties or attorney's fees.
  - b. Time Period. The waiver granted herein shall commence upon publication of this Compact in the Kansas Register and shall continue until the date of its termination pursuant to the terms

- of this Compact or cancellation, except that the waivers shall remain effective for any proceedings then pending and all appeals therefrom.
- c. Recipient of Waiver. The waiver of sovereign immunity is limited to the Tribe.
  - d. Enforcement. Kansas agrees to waive its sovereign immunity from a judgment or order which is final because either the time for appeal thereof has expired or the judgment or order issued by a court having final appellate jurisdiction over the matter. Kansas agrees to accept and be bound by any order or judgment of the United States District Court for Kansas or any other court having appellate jurisdiction over such Court. Further, Kansas waives its sovereign immunity as to enforcement in any federal court of any such final judgment against Tribe.
  - e. Service of Process. In any such suit, Kansas agrees that service on the Governor, Secretary of Revenue and Attorney General shall be effective if made by certified mail, return receipt requested at the addresses set forth herein.
  - f. Guarantee of Kansas Not to Revoke Waiver of Sovereign Immunity. Kansas agrees not to revoke its waiver of sovereign immunity contained in this Section. In the event of any such revocation, the Tribe may, at its option, declare this Compact terminated for breach by Kansas.
4. Attached hereto as Exhibit A and incorporated into this Compact is a copy of the Resolution of the Executive Committee of the Tribe approving this Compact including the limited waiver of sovereign immunity provisions and authorizing the Tribal Chairman to execute this Compact on behalf of the Tribe.
  5. Kansas agrees to not enter into a cigarette and tobacco compact with any Indian tribe that does not have a reservation established by treaty with the United States of America within the State of Kansas as of the date of publication of this Compact in the Kansas Register.
  6. Kansas agrees that it will fully enforce its cigarette and tobacco laws under Chapter 79 of the Kansas Statutes Annotated, and amendments thereto, including the administrative regulations pertaining thereto, and its MSA laws under Chapter 50 of the Kansas Statutes Annotated, and amendments thereto, including the administrative regulations pertaining thereto, against any retailer, distributor, wholesale dealer or manufacturer selling, importing, or delivering cigarettes or tobacco products in violation of Kansas law, including, but not limited to, not being on the Attorney General's approved list. This will include enforcement against other Indian tribes, including tribes in Kansas, unless the resident Kansas tribe has entered into a Compact with Kansas.

During the term of this compact, Kansas may enter into and be party to one or more compacts or other agreements regarding possession, transport, distribution, or sale of cigarettes or other tobacco products, including but not limited to taxation and escrow collection, with the Kickapoo Tribe in Kansas, the Prairie Band Potawatomi Nation, or the Sac and Fox Nation of Missouri in Kansas and Nebraska. Kansas shall not enter into or be party to any such compact or agreement with any Indian Tribe during the term of this Compact, except as otherwise provided above.

7. This Compact shall expire on the last day of the month five (5) years after the Effective Date and shall be automatically renewed for consecutive five (5) year terms thereafter unless either party gives written notice to the other not less than sixty (60) days prior to the end of the then current term that it elects to terminate this Compact.
8. In the event that Kansas elects to withdraw from the MSA and the 2003 NPM adjustment settlement agreement, including the 2012 term sheet agreement, then the Tribe shall be free to withdraw from the terms of this Compact without penalty.
9. Kansas agrees that Tribe may propose an amendment to this Compact by written notice to the Governor, State of Kansas and Attorney General based upon any provision of a compact Kansas entered into with another tribe which the Tribe desires to include as a provision in this Compact. If the Kansas Legislature does not approve the proposed amendment at the Legislative Session next following the Tribe's request for the amendment, Tribe may terminate this Compact at any time thereafter by written notice to the Governor, Secretary of Revenue and Attorney General.
10. The language of all parts of this Compact shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. It is the intent of the parties that this Compact shall be construed to reflect that the parties are of equal stature and dignity and have dealt with each other at arm's-length. Accordingly, any statutory or judicial rules concerning the construction of vague or ambiguous terms that might otherwise be used in the interpretation or enforcement of this Compact, including judicial decisions generally holding that agreements involving Indians or Indian tribes are to be construed in a manner in favor of Indians and Indian tribes, shall not obtain to the benefit or detriment of either party, nor shall the terms and conditions of this Agreement be extended by implication to the benefit or detriment of either party, it being the intent of the parties that the construction of this Compact shall be controlled by its express terms and not by implication.

11. Unless otherwise specifically noted herein, the definitions, words and terms used in this Compact shall have the same meaning as the definitions, words and terms used in Chapters 50 and 79 of the Kansas Statutes Annotated, and amendments thereto, including the administrative regulations pertaining thereto. If the definitions, words and terms used in this Compact are not found in Chapters 50 or 79 of the Kansas Statutes Annotated, and amendments thereto, including the administrative regulations pertaining thereto, then those definitions, words and terms are to be given their plain and ordinary meaning.
12. The paragraph headings contained in this Compact are for reference purposes only and shall not affect the meaning or interpretation of this Compact. If any provision of this Compact is declared or determined by any court to be illegal or invalid, that part shall be excluded from the Compact, but the validity of the remaining parts, terms, or provisions shall not be affected.
13. This Compact constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and Compacts, whether oral or written, between the parties, with respect to the subject matter hereof. This Compact can only be modified with the same formality as the original Compact.
14. Any failure by either party to enforce the other party's strict performance of any provision of this Compact will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Compact.
15. This Compact is personal in nature, and no party may directly or indirectly assign or transfer it by operation of law or otherwise. All obligations contained in this Compact shall extend to and be binding upon the parties to this Compact and their respective successors, assigns and designees.
16. Notices. All notices under this Compact shall be in writing and sent by way of certified U.S. mail to the following officials or their successors in office:

To the Tribe:

Chairperson and Executive Committee  
Iowa Tribe of Kansas and Nebraska  
3345 B Thrasher Road,  
White Cloud, KS 66094

To the Governor:

Office of the Governor  
300 SW 10th Ave., Ste. 241S  
Topeka, KS 66612-1590



To the Attorney General:  
Office of the Kansas Attorney  
120 SW 10th Ave., 2nd Floor  
Topeka, KS 66612-1597

To the Kansas Department of Revenue  
Secretary of Revenue  
915 SW Harrison Street, Second Floor  
Topeka, KS. 66612-1588

- 17. Confidentiality. All information provided hereunder to Kansas is confidential, except as Kansas is permitted under K.S.A. 2015 Supp. § 50-6a11(a) and K.S.A. 2015 Supp. § 75-5133(b)(19) to provide information for MSA and 2003 NPM adjustment settlement agreement, including the 2012 term sheet agreement purposes. All information will be provided to the Kansas Department of Revenue in the manner provided hereunder and shall be treated as confidential under K.S.A. 2015 Supp. § 75-5133.

**IN WITNESS WHEREOF**, the parties hereto have executed this Compact as of the date first above written.

**Iowa Tribe of Kansas and Nebraska**                      **State of Kansas**

By: Timothy N. Rhodd, Chairman    By: Sam Brownback, Governor

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CHAPTER 40

Senate Substitute for HOUSE BILL No. 2131

AN ACT concerning telecommunications; relating to local exchange carriers; concerning the Kansas universal service fund; concerning wireless communications, siting of equipment; relating to municipalities and state entities, public lands and public right-of-way; amending K.S.A. 17-1902 and 66-2004 and K.S.A. 2015 Supp. 66-2005, 66-2007, 66-2008 and 66-2017 and repealing the existing sections.

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

New Section 1. (a) The Kansas legislature finds and declares that:

- (1) The permitting, construction, modification, maintenance and operation of wireless facilities are critical to ensuring that all citizens in the state have true access to broadband and other advanced technology and information;
- (2) these facilities are critical to ensuring that businesses and schools throughout the state remain competitive in the global economy;
- (3) wireless telecommunications facilities that enable broadband services have a significant economic benefit; and
- (4) the permitting, construction, modification, maintenance and op-

eration of these facilities, to the extent specifically addressed in this section, are declared to be matters of statewide concern and interest.

(b) As used in this section:

(1) “Accessory equipment” means any equipment serving or being used in conjunction with a wireless facility or wireless support structure including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

(2) “Antenna” means communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless services.

(3) “Applicant” means any person or entity that is engaged in the business of providing wireless services or the wireless infrastructure required for wireless services and that submits an application.

(4) “Application” means a request submitted by an applicant to an authority for: (A) The construction of a new wireless support structure or new wireless facility;

(B) the substantial modification of a wireless support structure or wireless facility; or

(C) collocation of a wireless facility or replacement of a wireless facility.

(5) “Authority” means any governing body, board, agency, office or commission of a city, county or the state that is authorized by law to make legislative, quasi judicial or administrative decisions concerning an application. “Authority” shall not include any school district as defined in K.S.A. 72-8301, and amendments thereto, or any court having jurisdiction over land use, planning, zoning or other decisions made by an authority.

(6) “Base station” means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics. “Base station” does not mean a tower or equipment associated with a tower and does not include any structure that, at the time the relevant application is filed with the authority, does not support or house equipment described in this paragraph.

(7) “Collocation” means the mounting or installation of wireless facilities on a building, structure, wireless support structure, tower, utility pole, base station or existing structure for the purposes of transmitting or receiving radio frequency signals for communication purposes.

(8) “Distributed antenna system” means a network that distributes radio frequency signals and consisting of: (A) Remote communications or antenna nodes deployed throughout a desired coverage area, each including at least one antenna for transmission and reception;

(B) a high capacity signal transport medium that is connected to a central communications hub site; and

(C) radio transceivers located at the hub's site to process or control the communications signals transmitted and received through the antennas to provide wireless or mobile service within a geographic area or structure.

(9) "Existing structure" means a structure that exists at the time an application to collocate wireless facilities on a structure is filed with an authority. The term includes any structure that is currently supporting or designed to support the attachment of wireless facilities, including, but not limited to, towers, buildings and water towers.

(10) "Public lands, buildings and facilities" does not include any real property, structures or facilities under the ownership, control or jurisdiction of the secretary of transportation.

(11) "Public right-of-way" means only the area of real property in which the authority has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. "Public right-of-way" does not include any state, federal or interstate highway right-of-way, which generally includes the area that runs contiguous to, parallel with, and is generally equidistant from the center of that portion of the highway improved, designed or ordinarily used for public travel.

(12) "Replacement" includes constructing a new wireless support structure of comparable proportions and of comparable height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation and includes the associated removal of the pre-existing wireless facilities, if any, or wireless support structure.

(13) "Search ring" means a shape drawn on a map to indicate the general area within which a wireless services support structure should be located to meet radio frequency engineering requirements, taking into account other factors, including topography and the demographics of the service area.

(14) "Small cell facility" means a wireless facility that meets both of the following qualifications: (A) Each antenna is located inside an enclosure of no more than six cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and

(B) primary equipment enclosures that are no larger than 17 cubic feet in volume, or facilities comprised of such higher limits as the federal communications commission has excluded from review pursuant to 54 U.S.C. § 306108. Associated equipment may be located outside the primary equipment, and if so located, is not to be included in the calculation

of equipment volume. Associated equipment includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services.

(15) “Small cell network” means a collection of interrelated small cell facilities designed to deliver wireless service.

(16) “Substantial modification” means a proposed modification to an existing wireless support structure or base station that will substantially change the physical dimensions of the wireless support structure or base station under the objective standard for substantial change, established by the federal communications commission pursuant to 47 C.F.R. 1.40001.

(17) “Transmission equipment” means equipment that facilitates transmission for a wireless service licensed or authorized by the federal communications commission including, but not limited to, radio transceivers, antennas, coaxial or fiber optic cable and regular and backup power supply. “Transmission equipment” includes equipment associated with wireless services including, but not limited to, private, broadcast and public safety services such as wireless local area network services, and services utilizing a set of specifications developed by the institute of electrical and electronics engineers for interface between a wireless client and a base station or between two wireless clients, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul.

(18) “Wireless facility” means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to: (A) Equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and

(B) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

“Wireless facility” does not mean any wired connections from a wireless support structure or base station to a hub or switching location.

(19) “Wireless services” means “personal wireless services” and “personal wireless service facilities” as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities or any fixed or mobile wireless services provided using wireless facilities.

(20) “Wireless infrastructure provider” means any person that builds or installs transmission equipment, wireless facilities or wireless support structures, but that is not a wireless services provider.

(21) “Wireless support structure” means a freestanding structure,

such as a monopole, guyed or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities. “Wireless support structure” shall not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

(22) “Utility pole” means a structure owned or operated by a public utility as defined in K.S.A. 66-104, and amendments thereto, a municipality as defined in K.S.A. 75-6102, and amendments thereto, or an electric cooperative as defined in K.S.A. 2015 Supp. 17-4652, and amendments thereto, that is designed specifically for and used to carry lines, cables or wires for telecommunications, cable, electricity or to provide lighting.

(23) “Water tower” means a water storage tank or a standpipe, or an elevated tank situated on a support structure that was originally constructed for use as a reservoir or facility to store or deliver water.

(24) “Wireless services provider” means a provider of wireless services.

(c) (1) An authority shall not charge an application fee, consulting fee or other fee associated with the submission, review, processing and approval of an application that is not required for other wireless infrastructure providers or wireline telecommunications or broadband providers within the authority’s jurisdiction.

(2) An authority shall only assess fees or charges for the actual costs relating to the granting or processing of an application that are directly incurred by the authority and the authority shall not charge any market-based or value-based fees for the processing of an application. Such fees and charges shall be reasonably related in time to the occurrence of such costs.

(3) An authority or any third-party entity shall not include any travel expenses incurred in the review of an application for more than one trip per application to the authority’s jurisdiction and an applicant shall not be required to pay or reimburse an authority for a consultant or other third-party fees based on a contingency-based or results-based arrangement. Any travel expenses included must be reasonable and directly related to the application.

(4) The total charges and fees assessed by the authority shall not exceed:

(A) \$500 for a collocation application, that is not a substantial modification, small cell facility application or distributed antenna system application; or

(B) \$2,000 for an application for a new wireless support structure or for a collocation application that is a substantial modification of a wireless support structure.

(d) (1) An authority may not charge a wireless services provider or wireless infrastructure provider any rental, license or other fee to locate

a wireless facility or wireless support structure on any public right-of-way controlled by the authority, if the authority does not charge other telecommunications or video service providers, alternative infrastructure or wireless services providers or any investor-owned utilities or municipally-owned commercial broadband providers for the use of public right-of-way. If an authority does assess a charge, including a charge or rental fee for attachment to the facilities owned by the authority in the right-of-way, any such charge must be competitively neutral, with regard to other users of the public right-of-way, including investor-owned utilities or municipally-owned commercial broadband providers, and may not be unreasonable or discriminatory or violate any applicable state or federal law, rule or regulation.

(2) (A) Subject to the provisions of this subsection, a wireless services provider or wireless infrastructure provider, subject to an application, shall have the right to construct, maintain and operate wireless support structures, utility poles, small cell wireless facilities or distributed antenna systems along, across, upon, under or above the public right-of-way. The authority must be competitively neutral with regard to other users of the public right-of-way, may not be unreasonable or discriminatory and may not violate any applicable state or federal law, rule or regulation.

(B) Nothing in this subsection (d) shall be interpreted as granting a wireless services provider or wireless infrastructure provider the right to construct, maintain or operate any facility or related appurtenance on property owned by the authority outside of the public right-of-way.

(C) The right of a wireless services provider or wireless infrastructure provider to use and occupy the public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the authority. An authority may exercise its home rule powers in its administration and regulation related to the management of the public right-of-way provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory.

(D) The authority shall have the right to prohibit the use or occupation of a specific portion of public right-of-way by a provider due to a reasonable public interest necessitated by public health, safety and welfare so long as such interest is exercised in a competitively neutral manner and is not unreasonable or discriminatory.

(E) A wireless services provider or wireless infrastructure provider shall comply with all laws and rules and regulations governing the use of public right-of-way.

(F) An authority may require a wireless services provider or wireless infrastructure provider to repair all damage to a public right-of-way caused by the activities of that provider, or of any agent, affiliate, employee or subcontractor of that provider, while occupying, installing, repairing or maintaining facilities in a public right-of-way and to return the

right-of-way to the condition in which it existed prior to the damage. If a wireless services provider or wireless infrastructure provider fails to make the repairs required by an authority, the authority may effect those repairs and charge the provider the reasonable cost of those repairs. If an authority incurs damages as a result of a violation of this paragraph, then the authority shall have a cause of action against a wireless services provider or wireless infrastructure provider for violation of this paragraph, and may recover its damages, including reasonable attorney fees, if such provider is found liable by a court of competent jurisdiction.

(G) If requested by an authority, in order to accomplish construction and maintenance activities directly related to improvements for the health, safety and welfare of the public, a wireless services provider or wireless infrastructure provider shall relocate or adjust its facilities within the public right-of-way at no cost to the authority, as long as such request similarly binds all users of such right-of-way. Such relocation or adjustment shall be completed as soon as reasonably possible within the time set forth in any written request by the authority for such relocation or adjustment, as long as the authority provides the wireless services provider or wireless infrastructure provider with a minimum of 180 days advance written notice to comply with such relocation or adjustment, unless circumstances beyond the authority's control require a shorter period of advance notice. If any such relocation or adjustment is for private benefit, the provider shall not bear the cost of the relocation or adjustment to the extent of such private benefit and the provider shall not be obligated to commence the relocation or adjustment until receipt of funds for such relocation or adjustment. The provider shall have no liability for any delays caused by a failure to receive funds for the cost of such relocation or adjustment and the authority shall have no obligation to collect such funds.

(H) Wireless services providers and wireless infrastructure providers shall indemnify and hold the authority and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the wireless services provider or wireless infrastructure provider, any agent, officer, director, representative, employee, affiliate or subcontractor of the provider, or their respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining facilities in a public right-of-way. The indemnity provided by this paragraph does not apply to any liability resulting from the negligence of an authority, its officers, employees, contractors or subcontractors. If a provider and the authority are found jointly liable by a

court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state, without waiving any governmental immunity available to the authority under state law and without waiving any defenses of the parties under state or federal law. This paragraph is solely for the benefit of the authority and the wireless services provider or wireless infrastructure provider and does not create or grant any rights, contractual or otherwise, to any other person or entity.

(1) A wireless services provider or wireless infrastructure provider or authority shall promptly advise the other in writing of any known claim or demand against the provider or the authority related to or arising out of the provider's activities in a public right-of-way.

(3) The provisions of this subsection shall not apply to or affect any authority's jurisdiction over the activities of wireless services providers or wireless infrastructure providers in public utility easements, private easements or on privately owned property.

(4) Nothing in this subsection shall be construed to prevent wireless structures and wireless facilities from being located on state, federal or interstate highway right-of-way in accordance with reasonable policies and procedures adopted by the manager of the state, federal and interstate highway right-of-way under applicable federal and state law.

(e) (1) An authority may enter into a lease with an applicant for the applicant's use of public lands, buildings and facilities. When entering into a lease for use of publicly owned lands, an authority shall offer leases or contracts for applicants to use publicly owned lands that are at least 10 years in duration, unless otherwise agreed to by both the applicant and the authority, and at market rates. Any lease renewals shall be negotiated in good faith. Due to the benefit of increased broadband and wireless services to the citizens of the authority, an authority may choose not to charge for the placement of wireless facilities on public lands. If an authority does charge, any such charges for use of publicly owned lands and facilities must be competitively neutral with regard to other users of the publicly owned lands and facilities, including any investor-owned utilities or municipally owned commercial broadband providers, may not be unreasonable or discriminatory and may not violate any applicable state or federal law, rule or regulation.

(2) If the applicant and the authority do not agree on the applicable market rate for the use or lease of public land and are unable to agree on a process to determine the applicable market rate for any such public land, then the market rate will be determined by a panel of three appraisers. The panel will consist of one appraiser appointed by each party and a third appraiser selected by the two appointed appraisers. Each appraiser will independently appraise the appropriate lease rate and the market rate shall be set at the mean between the highest and lowest market rates among all three independent appraisals, unless the mean between the highest and lowest appraisals is greater than or less than 10%



of the appraisal of the third appraiser chosen by the parties' appointed appraisers, in which case the third appraisal will determine the rate for the lease. The appraisal process shall be concluded within 150 calendar days from the date the applicant first tenders a proposed lease rate to the authority. Each party will bear the cost of the party's own appointed appraiser, and the parties shall share equally the cost of the third appraiser chosen by the two appointed appraisers.

(3) Nothing in this subsection shall be construed to prevent wireless structures and wireless facilities from being located on real property, structures or facilities under the ownership, control or jurisdiction of the secretary of transportation in accordance with reasonable policies and procedures adopted by the secretary of transportation under applicable federal and state law.

(4) This subsection (e) shall not apply to public rights-of-way governed by subsection (d).

(f) To ensure uniformity across the state with respect to consideration of every application, an authority shall not:

(1) Require an applicant to submit information about, or evaluate an applicant's business decisions with respect to, the applicant's designed service, customer demand for service or quality of the applicant's service to or from a particular area or site. An authority may require an applicant filing an application for a new wireless support structure to state in such application that the applicant conducted an analysis of available collocation opportunities on existing wireless support structures within the same search ring defined by the applicant, solely for the purpose of confirming that an applicant undertook such analysis;

(2) require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. An authority may not require proprietary, confidential or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunications traffic studies;

(3) evaluate an application based on the availability of other potential locations for the placement of wireless support structures or wireless facilities including, but not limited to, the option to collocate, instead of construct, a new wireless support structure or for substantial modifications of a support structure;

(4) dictate the type of transmission equipment or technology to be used by the applicant including, but not limited to, requiring an applicant to construct a distributed antenna system or small cell facility in lieu of constructing a new wireless support structure or discriminate between different types of infrastructure or technology;

(5) require the removal of existing wireless support structures or wireless facilities, wherever located, as a condition for approval of an

application. This paragraph shall not preclude an authority from adopting reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities;

(6) impose any restrictions at or near civilian airports with respect to objects in navigable airspace height limitations, proximity to civilian airports or markings and lighting on wireless support structures or base stations that are greater than, or in conflict with, any restrictions imposed by the federal aviation administration, except that this paragraph shall not be construed so as to impact any existing height restrictions adopted by an authority as of the effective date of this section on wireless support structures or base stations located at or near civilian airports;

(7) establish or enforce regulations or procedures for radio frequency signal strength or the adequacy of service quality;

(8) impose surety requirements, including bonds, escrow deposits, letters of credit or any other type of financial surety to ensure that abandoned or unused facilities can be removed, unless the authority imposes similar requirements on other permits for other types of commercial development or land uses, and any such instrument cannot exceed a reasonable estimate of the direct cost of the removal of the facility. If surety requirements are imposed, any such requirements shall be competitively neutral, non-discriminatory, reasonable in amount and commensurate with the historical record for local facilities and structures that are abandoned;

(9) discriminate or create a preference on the basis of the ownership of any property, structure, base station or wireless support structure when promulgating rules or procedures for siting wireless facilities or for evaluating applications or require the placement of wireless support structures or wireless facilities on property owned or leased by the authority, but an authority may develop a process to encourage the placement of wireless support structures or wireless facilities on property owned or leased by the authority, including an expedited approval process. Nothing in this subsection shall be construed to hinder or restrict the siting of public safety communications towers, including, but not limited to, police and fire;

(10) impose any unreasonable requirements or obligations regarding the presentation, appearance or function of the wireless facilities and equipment including, but not limited to, those relating to any kinds of materials used and those relating to arranging, screening or landscaping of facilities. In developing such a requirement or obligation for wireless facilities located on a public right-of-way, the authority shall consider input from property owners adjoining the affected public right-of-way;

(11) impose any requirements that an applicant purchase, subscribe to, use or employ facilities, networks or services owned, provided or operated by an authority, in whole or in part, or by any entity in which the

authority has a competitive, economic, financial, governance or other interest;

(12) impose environmental testing, sampling or monitoring requirements that exceed federal law;

(13) impose any compliance measures for radio frequency emissions or exposure from wireless facilities that exceed the requirements of the federal communications commission rules for radio frequency;

(14) in conformance with 47 U.S.C. § 332(c)(7)(B)(iv), reject an application, in whole or in part, based on perceived or alleged environmental effects of radio frequency emissions or exposure;

(15) prohibit the use of emergency power systems that comply with federal and state environmental requirements and do not violate local health and safety requirements and local noise control ordinances, but no local regulations shall prevent the provision of emergency power during an actual emergency;

(16) condition or require the approval of an application based on the applicant's agreement to permit any wireless facilities provided or operated, in whole or in part, by an authority or by any other entity to be placed at, or collocated with, the applicant's wireless support structure;

(17) impose a greater setback or fall-zone requirement for a wireless support structure than for other types of commercial structure of a similar size; or

(18) limit, for less than 10 years, the duration of the approval of an application. Any renewals shall be negotiated in good faith. Construction of the approved structure or facilities shall commence within one year of final approval and shall be diligently pursued to completion.

(g) An applicant for a small cell network involving no greater than 25 individual small cell facilities of a substantially similar design within the jurisdiction of a single authority shall be permitted, upon request by the applicant, to file a consolidated application and receive a single permit for the installation, construction, maintenance and repair of a small cell network instead of filing separate applications for each individual small cell facility, except that the authority may require a separate application for any small cell facilities that are not of a substantially similar design. The authority shall render a decision no later than 60 days after the submission of an application regarding small cell facilities that satisfies the authority's requirements in a single administrative proceeding.

(h) (1) Within 150 calendar days of receiving an application for a new wireless support structure and within 90 calendar days of receiving an application for a substantial modification to an existing wireless support structure or base station, or any other application for placement, installation or construction of transmission equipment that does not constitute an eligible facilities request as defined by 47 U.S.C. § 1455(a), an authority shall: (A) Review the application in light of the application's conformity with applicable local zoning regulations;

(B) make a final decision to approve or disapprove the application; and

(C) advise the applicant in writing of the authority's final decision, supported by substantial evidence contained in a written record and issued contemporaneously. If an authority denies an application, there must be a reasonable basis for the denial. An authority may not deny an application if such denial discriminates against the applicant with respect to the placement of the facilities of other investor-owned utilities, wireless service providers, wireless infrastructure providers or wireless carriers.

(2) (A) The time period for approval of applications shall begin when the application is submitted and may be tolled within the first 30 days after the submission of the application if the authority notifies the applicant that such application is incomplete, identifies all missing information and specifies the code provision, ordinance, application instruction or otherwise publicly stated procedures that require the information to be submitted.

(B) The time period for approval of applications shall begin running again when the applicant provides the necessary supplemental information. Additionally, the time period for approval of applications may be tolled by the express agreement in writing by both the applicant and the authority.

(3) An application shall be deemed approved if an authority fails to act on an application for a: (A) New wireless support structure within the 150-calendar day review period specified; or

(B) substantial modification to an existing wireless support structure or base station or any other applications for placement, installation or construction of transmission equipment that does not constitute an eligible facilities request as defined by 47 U.S.C. § 1455(a) within the 90 calendar days review period specified.

(4) An authority shall approve applications for eligible facilities requests, as defined by 47 U.S.C. § 1455(a), within 60 days according to the procedures established by federal law under 47 C.F.R. 1.40001.

(5) An application shall be deemed approved once an applicant has provided notice to the authority that the applicable time periods provided in this section have lapsed.

(6) Within 30 days of the notice provided pursuant to subsection (h)(5), a party aggrieved by the final action of an authority, either by the authority affirmatively denying an application or by the authority's inaction, may bring an action for review in any court of competent jurisdiction.

(i) An authority may not institute any moratorium on the filing, consideration or approval of applications, permitting or the construction of new wireless support structures, substantial modifications of wireless support structures or collocations.

(j) Subject to the provisions of this section and applicable federal law, an authority may continue to exercise zoning, land use, planning and

permitting authority within the authority's territorial boundaries with regard to the siting of new or the modification of wireless support structures, wireless facilities, small cell facilities or utility poles, except that no authority shall have or exercise any zoning or siting jurisdiction, authority or control over the construction, installation or operation of any small cell facility or distributed antennae system located in an interior structure or upon the site of any campus, stadium or athletic facility.

(k) Nothing in this section shall be construed to apply to military installations.

(l) The provisions of this section shall take effect and be in force on and after October 1, 2016.

Sec. 2. On and after October 1, 2016, K.S.A. 17-1902 is hereby amended to read as follows: 17-1902. (a) (1) "Public right-of-way" means only the area of real property in which the city has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other nonwire telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.

(2) "Provider" means a local exchange carrier as defined in ~~subsection (h) of K.S.A. 66-1,187(h)~~, and amendments thereto, or a telecommunications carrier as defined in ~~subsection (m) of K.S.A. 66-1,187(m)~~, and amendments thereto, or a video service provider as defined in K.S.A. ~~2007~~ 2015 Supp. 12-2022, and amendments thereto, *but does not include an applicant as defined in section 1, and amendments thereto.*

(3) "Telecommunications services" means providing the means of transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(4) "Competitive infrastructure provider" means an entity which leases, sells or otherwise conveys facilities located in the right-of-way, or the capacity or bandwidth of such facilities for use in the provision of telecommunications services, internet services or other intrastate and interstate traffic, but does not itself provide services directly to end users within the corporate limits of the city.

(b) Any provider shall have the right pursuant to this act to construct, maintain and operate poles, conduit, cable, switches and related appurtenances and facilities along, across, upon and under any public right-of-way in this state. Such appurtenances and facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such public ways or obstruct the legal use by other utilities.

(c) Nothing in this act shall be interpreted as granting a provider the

authority to construct, maintain or operate any facility or related appurtenance on property owned by a city outside of the public right-of-way.

(d) The authority of a provider to use and occupy the public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the city. A city may exercise its home rule powers in its administration and regulation related to the management of the public right-of-way provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory. Nothing herein shall be construed to limit the authority of cities to require a competitive infrastructure provider to enter into a contract franchise ordinance.

(e) The city shall have the authority to prohibit the use or occupation of a specific portion of public right-of-way by a provider due to a reasonable public interest necessitated by public health, safety and welfare so long as the authority is exercised in a competitively neutral manner and is not unreasonable or discriminatory. A reasonable public interest shall include the following:

(1) The prohibition is based upon a recommendation of the city engineer, is related to public health, safety and welfare and is nondiscriminatory among providers, including incumbent providers;

(2) the provider has rejected a reasonable, competitively neutral and nondiscriminatory justification offered by the city for requiring an alternate method or alternate route that will result in neither unreasonable additional installation expense nor a diminution of service quality;

(3) the city reasonably determines, after affording the provider reasonable notice and an opportunity to be heard, that a denial is necessary to protect the public health and safety and is imposed on a competitively neutral and nondiscriminatory basis; or

(4) the specific portion of the public right-of-way for which the provider seeks use and occupancy is environmentally sensitive as defined by state or federal law or lies within a previously designated historic district as defined by local, state or federal law.

(f) A provider's request to use or occupy a specific portion of the public right-of-way shall not be denied without reasonable notice and an opportunity for a public hearing before the city governing body. A city governing body's denial of a provider's request to use or occupy a specific portion of the public right-of-way may be appealed to a district court.

(g) A provider shall comply with all laws and rules and regulations governing the use of public right-of-way.

(h) A city may not impose the following regulations on providers:

(1) Requirements that particular business offices or other telecommunications facilities be located in the city;

(2) requirements for filing applications, reports and documents that are not reasonably related to the use of a public right-of-way or this act;

(3) requirements for city approval of transfers of ownership or control

of the business or assets of a provider's business, except that a city may require that such entity maintain current point of contact information and provide notice of a transfer within a reasonable time; and

(4) requirements concerning the provisioning of or quality of customer services, facilities, equipment or goods in-kind for use by the city, political subdivision or any other provider or public utility.

(i) Unless otherwise required by state law, in the exercise of its lawful regulatory authority, a city shall promptly, and in no event more than 30 days, with respect to facilities in the public right-of-way, process each valid and administratively complete application of a provider for any permit, license or consent to excavate, set poles, locate lines, construct facilities, make repairs, effect traffic flow, obtain zoning or subdivision regulation approvals, or for other similar approvals, and shall make reasonable effort not to unreasonably delay or burden that provider in the timely conduct of its business. The city shall use its best reasonable efforts to assist the provider in obtaining all such permits, licenses and other consents in an expeditious and timely manner.

(j) If there is an emergency necessitating response work or repair, a provider may begin that repair or emergency response work or take any action required under the circumstances, provided that the provider notifies the affected city promptly after beginning the work and timely thereafter meets any permit or other requirement had there not been such an emergency.

(k) A city may require a provider to repair all damage to a public right-of-way caused by the activities of that provider, or of any agent affiliate, employee, or subcontractor of that provider, while occupying, installing, repairing or maintaining facilities in a public right-of-way and to return the right-of-way, to its functional equivalence before the damage pursuant to the reasonable requirements and specifications of the city. If the provider fails to make the repairs required by the city, the city may effect those repairs and charge the provider the cost of those repairs. If a city incurs damages as a result of a violation of this subsection, then the city shall have a cause of action against a provider for violation of this subsection, and may recover its damages, including reasonable attorney fees, if the provider is found liable by a court of competent jurisdiction.

(l) If requested by a city, in order to accomplish construction and maintenance activities directly related to improvements for the health, safety and welfare of the public, a provider shall promptly remove its facilities from the public right-of-way or shall relocate or adjust its facilities within the public right-of-way at no cost to the political subdivision. Such relocation or adjustment shall be completed as soon as reasonably possible within the time set forth in any request by the city for such relocation or adjustment. Any damages suffered by the city or its contractors as a result of such provider's failure to timely relocate or adjust its facilities shall be borne by such provider.

(m) No city shall create, enact or erect any unreasonable condition, requirement or barrier for entry into or use of the public rights-of-way by a provider.

(n) A city may assess any of the following fees against a provider, for use and occupancy of the public right-of-way, provided that such fees reimburse the city for its reasonable, actual and verifiable costs of managing the city right-of-way, and are imposed on all such providers in a nondiscriminatory and competitively neutral manner:

(1) A permit fee in connection with issuing each construction permit to set fixtures in the public right-of-way within that city as provided in K.S.A. 17-1901, and amendments thereto, to compensate the city for issuing, processing and verifying the permit application;

(2) an excavation fee for each street or pavement cut to recover the costs associated with construction and repair activity of the provider, their assigns, contractors ~~and/or~~ or subcontractors, *or both*, with the exception of construction and repair activity required pursuant to subsection (1) of this act related to construction and maintenance activities directly related to improvements for the health, safety and welfare of the public; provided, however, imposition of such excavation fee must be based upon a regional specific or other appropriate study establishing the basis for such costs which takes into account the life of the city street prior to the construction or repair activity and the remaining life of the city street. Such excavation fee is expressly limited to activity that results in an actual street or pavement cut;

(3) inspection fees to recover all reasonable costs associated with city inspection of the work of the provider in the right-of-way;

(4) repair and restoration costs associated with repairing and restoring the public right-of-way because of damage caused by the provider, its assigns, contractors ~~and/or~~ or subcontractors, *or both*, in the right-of-way; and

(5) a performance bond, in a form acceptable to the city, from a surety licensed to conduct surety business in the state of Kansas, insuring appropriate and timely performance in the construction and maintenance of facilities located in the public right-of-way.

(o) A city may not assess any additional fees against providers for use or occupancy of the public right-of-way other than those specified in subsection (n).

(p) This act may not be construed to affect any valid taxation of a provider's facilities or services.

(q) Providers shall indemnify and hold the city and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees ~~(including~~ *to include* reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury ~~(including or death)~~, property damage or other harm for which



recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the provider, any agent, officer, director, representative, employee, affiliate or subcontractor of the provider, or their respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining facilities in a public right-of-way. The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the city, its officers, employees, contractors or subcontractors. If a provider and the city are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the city under state law and without waiving any defenses of the parties under state or federal law. This section is solely for the benefit of the city and provider and does not create or grant any rights, contractual or otherwise, to any other person or entity.

(r) A provider or city shall promptly advise the other in writing of any known claim or demand against the provider or the city related to or arising out of the provider's activities in a public right-of-way.

(s) Nothing contained in K.S.A. 17-1902, and amendments thereto, is intended to affect the validity of any franchise fees collected pursuant to state law or a city's home rule authority.

(t) Any ordinance enacted prior to the effective date of this act governing the use and occupancy of the public right-of-way by a provider shall not conflict with the provisions of this act.

Sec. 3. K.S.A. 66-2004 is hereby amended to read as follows: 66-2004.

(a) Pursuant to ~~subsection (f)(1) of section 251 of the federal act 47 U.S.C. § 251(f)(1)~~, the obligations of an incumbent local exchange carrier, which include the duty to negotiate interconnection, unbundled access, resale, notice of changes and collocation, shall not apply to a rural telephone company unless such company has received a bona fide request for interconnection, services or network elements and the commission determines that such request is not unduly economically burdensome, is technically feasible and preserves and enhances universal service.

(b) On July 1, 1996, the commission shall initiate a rulemaking procedure to adopt guidelines to ensure that all telecommunications carriers and local exchange carriers preserve and enhance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services and safeguard the rights of consumers. The preservation and advancement of universal service shall be a primary concern. The commission shall issue the guidelines no later than December 31, 1996.

(c) Pursuant to ~~subsection (f) of section 253 of the federal act 47 U.S.C. § 253(f)~~, any telecommunications carrier that seeks to provide telephone exchange service or local exchange access in a service area

served by a rural telephone company shall meet the requirements of ~~subsection (e)(1) of section 214 of the federal act 47 U.S.C. § 214(e)(1)~~ for designation as an eligible telecommunications carrier for that area before being permitted by the commission to provide such service; however, the guidelines shall be consistent with the provisions of ~~subsection (f) (1) and (2) of section 253 of the federal act 47 U.S.C. § 253(f)(1) and (2).~~

(d) The commission may grant a certificate to provide local exchange or exchange access service in the service area of a rural telephone company if, among other issues to be considered by the commission, the application for such certificate complies with commission guidelines issued pursuant to subsection (b).

(e) Any restrictions established by the commission for rural entry of competitors or for resale and unbundling of services shall not apply to any service area of a rural telephone company if such company, or an entity in which such company directly or indirectly owns an equity interest of 10% or more, provides local exchange or exchange access service, as authorized under ~~K.S.A. 2002 Supp. 60-2003, and amendments thereto,~~ and this section, in any area of the state outside of its local exchange areas, as approved by the commission on or before January 1, 1996, and outside of any area in which it is the successor to the local exchange carrier serving such area on or before January 1, 1996.

*(f) (1) Any local exchange carrier electing pursuant to K.S.A. 66-2005(b), and amendments thereto, to operate under traditional rate of return regulation, or an entity in which such carrier directly or indirectly owns an equity interest of 10% or more, shall not use KUSF funding, except for Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and amendments thereto, for the purposes of providing telecommunication services in an area outside of the carrier's authorized service area.*

*(2) The provisions of this subsection shall not be construed to affect a competitive eligible telecommunications carrier's eligibility for KUSF support pursuant to K.S.A. 66-2008(c)(4), and amendments thereto.*

Sec. 4. K.S.A. 2015 Supp. 66-2005 is hereby amended to read as follows: 66-2005. (a) Each local exchange carrier shall file a network infrastructure plan with the commission on or after January 1, 1997, and prior to January 1, 1998. Each plan, as a part of universal service protection, shall include schedules, which shall be approved by the commission, for deployment of universal service capabilities by July 1, 1998, and the deployment of enhanced universal service capabilities by July 1, 2003, as defined pursuant to ~~subsections (p) and (q) of K.S.A. 66-1,187(p) and (q),~~ and amendments thereto, respectively. With respect to enhanced universal service, such schedules shall provide for deployment of ISDN, or its technological equivalent, or broadband facilities, only upon a firm cus-

tomers order for such service, or for deployment of other enhanced universal services by a local exchange carrier. After receipt of such an order and upon completion of a deployment plan designed to meet the firm order or otherwise provide for the deployment of enhanced universal service, a local exchange carrier shall notify the commission. The commission shall approve the plan unless the commission determines that the proposed deployment plan is unnecessary, inappropriate, or not cost effective, or would create an unreasonable or excessive demand on the KUSF. The commission shall take action within 90 days. If the commission fails to take action within 90 days, the deployment plan shall be deemed approved. This approval process shall continue until July 1, 2000. Each plan shall demonstrate the capability of the local exchange carrier to comply on an ongoing basis with quality of service standards to be adopted by the commission no later than January 1, 1997.

(b) In order to protect universal service, facilitate the transition to competitive markets and stimulate the construction of an advanced telecommunications infrastructure, each local exchange carrier shall file a regulatory reform plan at the same time as it files the network infrastructure plan required in subsection (a). As part of its regulatory reform plan, a local exchange carrier may elect traditional rate of return regulation or price cap regulation. Carriers that elect price cap regulation shall be exempt from rate base, rate of return and earnings regulation and shall not be subject to the provisions of K.S.A. 66-136 and 66-127, and amendments thereto, except as otherwise provided in such sections. However, the commission may resume such regulation upon finding, after a hearing, that a carrier that is subject to price cap regulation has: Violated minimum quality of service standards pursuant to ~~subsection (1)~~ of K.S.A. 66-2002(l), and amendments thereto; been given reasonable notice and an opportunity to correct the violation; and failed to do so. Regulatory reform plans also shall include:

(1) A commitment to provide existing and newly ordered point-to-point broadband services to: Any hospital as defined in K.S.A. 65-425, and amendments thereto; any school accredited pursuant to K.S.A. 72-1101 et seq., and amendments thereto; any public library; or other state and local government facilities at discounted prices close to, but not below, long-run incremental cost; and

(2) a commitment to provide basic rate ISDN service, or the technological equivalent, at prices which are uniform throughout the carrier's service area. Local exchange carriers shall not be required to allow retail customers purchasing the foregoing discounted services to resell those services to other categories of customers. Telecommunications carriers may purchase basic rate ISDN services, or the technological equivalent, for resale in accordance with K.S.A. 66-2003, and amendments thereto. The commission may reduce prices charged for services outlined in ~~pro-~~

~~visions paragraphs~~ (1) and (2) of this subsection, if the commitments of the local exchange carrier set forth in those provisions are not being kept.

(c) Subject to the commission's approval, all local exchange carriers shall reduce intrastate access charges to interstate levels as provided herein. Rates for intrastate switched access, and the imputed access portion of toll, shall be reduced over a three-year period with the objective of equalizing interstate and intrastate rates in a revenue neutral, specific and predictable manner. The commission is authorized to rebalance local residential and business service rates to offset the intrastate access and toll charge reductions. Any remaining portion of the reduction in access and toll charges not recovered through local residential and business service rates shall be paid out from the KUSF pursuant to K.S.A. 66-2008, and amendments thereto. Each rural telephone company shall adjust its intrastate switched access rates on March 1 of each odd-numbered year to match its interstate switched access rates, subject to the following:

(1) Any reduction of a rural telephone company's cost recovery due to reduction of its intrastate access revenue, except such revenue recovered from another support mechanism, shall be recovered from the KUSF;

(2) any portion of rural telephone company reductions in intrastate switched access rates which would result in an increase in KUSF recovery in a single year which exceeds .75% of intrastate retail revenues used in determining sums which may be recovered from Kansas telecommunications customers pursuant to ~~subsection (a) of~~ K.S.A. 66-2008(a), and amendments thereto, shall be deferred until March 1 of the next following odd-numbered year; and

(3) no rural company shall be required at any time to reduce its intrastate switched access rates below the level of its interstate switched access rates.

(d) Beginning March 1, 1997, each rural telephone company shall have the authority to increase annually its monthly basic local residential and business service rates by an amount not to exceed \$1 in each 12-month period until such monthly rates reach an amount equal to the statewide rural telephone company average rates for such services. The statewide rural telephone company average rates shall be the arithmetic mean of the lowest flat rate as of March 1, 1996, for local residential service and for local business service offered by each rural telephone company within the state. In the case of a rural telephone company which increases its local residential service rate or its local business service rate, or both, to reach the statewide rural telephone company average rate for such services, the amount paid to the company from the KUSF shall be reduced by an amount equal to the additional revenue received by such company through such rate increase. In the case of a rural telephone company which elects to maintain a local residential service rate or a local business service rate, or both, below the statewide rural telephone com-

pany average, the amount paid to the company from the KUSF shall be reduced by an amount equal to the difference between the revenue the company could receive if it elected to increase such rate to the average rate and the revenue received by the company.

(e) For purposes of determining sufficient KUSF support, an affordable rate for local exchange service provided by a rural telephone company subject to traditional rate of return regulation shall be determined as follows:

(1) For residential service, an affordable rate shall be the arithmetic mean of residential local service rates charged in this state in all exchanges served by rural telephone companies and in all exchanges in rate groups 1 through 3 as of February 20, 2002, of all other local exchange carriers, but not including electing carriers, weighted by the number of residential access lines to which each such rate applies, and thereafter rounded to the nearest quarter-dollar, subject to the following provisions:

(A) If a rural telephone company's present residential rate, including any separate charge for tone dialing, is at or above such weighted mean, such rate shall be deemed affordable prior to March 1, 2007.

(B) If a rural telephone company's present residential rate, including any separate charge for tone dialing, is below such average: (i) Such rate shall be deemed affordable prior to March 1, 2003; (ii) as of March 1, 2003, and prior to March 1, 2004, a rate \$2 higher than the company's present residential monthly rate, but not exceeding such weighted mean, shall be deemed affordable; (iii) as of March 1, 2004, and prior to March 1, 2005, a rate \$4 higher than the company's present residential monthly rate, but not exceeding such weighted mean, shall be deemed affordable; and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher than the company's present residential monthly rate, but not exceeding such weighted mean, shall be deemed affordable.

(C) As of March 1, 2007, and each two years thereafter, an affordable residential service rate shall be the weighted arithmetic mean of local service rates determined as of October 1 of the preceding year in the manner hereinbefore specified, except that any increase in such mean exceeding \$2 may be satisfied by increases in a rural telephone company's residential monthly service rate not exceeding \$2 per year, effective March 1 of the year when such mean is determined, with the remainder applied at the rate of \$2 per year, but not to exceed the affordable rate.

(2) For single line business service at any time, an affordable rate shall be the existing rate or an amount \$3 greater than the affordable rate for residential service as determined under ~~provision~~ *paragraph* (1) of this subsection, whichever is higher, except that any increase in the business service affordable rate exceeding \$2 may be satisfied by increases in a rural telephone company's business monthly service rate not exceeding \$2 per year, effective March 1 of the year when such rate is determined,

with the remainder applied at the rate of \$2 per year, but not to exceed the affordable rate.

(3) Any flat fee or charge imposed per line on all residential service or single line business service, or both, other than a fee or charge for contribution to the KUSF or imposed by other governmental authority, shall be added to the basic service rate for purposes of determining an affordable rate pursuant to this subsection.

(4) Not later than March 1, 2003, tone dialing shall be made available to all local service customers of each rural telephone company at no charge additional to any increase in the local service rate to become effective on that date. The amount of revenue received as of March 1, 2002, by a rural telephone company from the provision of tone dialing service shall be excluded from reductions in the company's KUSF support otherwise resulting pursuant to this subsection.

(5) A rural telephone company which raises one or more local service rates on application made after February 20, 2002, and pursuant to ~~subsection (b) of K.S.A. 66-2007(b)~~, and amendments thereto, shall have the level of its affordable rate increased by an amount equal to the amount of the increase in such rate.

(6) Upon motion by a rural telephone company, the commission may determine a higher affordable local residential or business rate for such company if such higher rate allows the company to provide additional or improved service to customers, but any increase in a rural telephone company's local rate attributable to the provision of increased calling scope shall not be included in any subsequent recalculation of affordable rates as otherwise provided in this subsection.

(7) A uniform rate for residential and single line business local service adopted by a rural telephone company shall be deemed an affordable rate for purposes of this subsection if application of such uniform rate generates revenue equal to that which would be generated by application of residential and business rates which are otherwise deemed affordable rates for such company under this subsection.

(8) The provisions of this subsection relating to the implementation of an affordable rate shall not apply to rural telephone companies which do not receive KUSF support. When recalculating affordable rates as provided in this subsection, the rates used shall include the actual rates charged by rural companies that do not receive KUSF support.

(f) For regulatory reform plans in which price cap regulation has been elected, price cap plans shall have three baskets: Residential and single-line business, including touch-tone; switched access services; and miscellaneous services. The commission shall establish price caps at the prices existing when the regulatory plan is filed subject to rate rebalancing as provided in subsection (c) for residential services, including touch-tone services, and for single-line business services, including touch-tone services, within the residential and single-line business service basket. The

commission shall establish a formula for adjustments to the price caps. The commission also shall establish price caps at the prices existing when the regulatory plan is filed for the miscellaneous services basket. The commission shall approve any adjustments to the price caps for the miscellaneous service basket, as provided in subsection (g).

(g) On or before January 1, 1997, the commission shall issue a final order in a proceeding to determine the price cap adjustment formula that shall apply to the price caps for the local residential and single-line business and the miscellaneous services baskets and for sub-categories, if any, within those baskets. In determining this formula, the commission shall balance the public policy goals of encouraging efficiency and promoting investment in a quality, advanced telecommunications network in the state. The commission also shall establish any informational filing requirements necessary for the review of any price cap tariff filings, including price increases or decreases within the caps, to verify such caps would not be exceeded by any proposed price change. The adjustment formula shall apply to the price caps for the local residential and single-line business basket after December 31, 1999, and to the miscellaneous services basket after December 31, 1997. The price cap formula, but not actual prices, shall be reviewed every five years.

(h) The price caps for the residential and single-line business service basket shall be capped at their initial level until January 1, 2000, except for any increases authorized as a part of the revenue neutral rate rebalancing under subsection (c). The price caps for this basket and for the categories in this basket, if any, shall be adjusted annually after December 31, 1999, based on the formula determined by the commission under subsection (g).

(i) The price cap for the switched access service basket shall be set based upon the local exchange carrier's intrastate access tariffs as of January 1, 1997, except for any revenue neutral rate rebalancing authorized in accordance with subsection (c). Thereafter, the cap for this basket shall not change except in connection with any subsequent revenue neutral rebalancing authorized by the commission under subsection (c).

(j) The price caps for the miscellaneous services basket shall be adjusted annually after December 31, 1997, based on the adjustment formula determined by the commission under subsection (g).

(k) A price cap is a maximum price for all services taken as a whole in a given basket. Prices for individual services may be changed within the service categories, if any, established by the commission within a basket. An entire service category, if any, within the residential and single-line business basket or miscellaneous services basket may be priced below the cap for such category. Unless otherwise approved by the commission, no service shall be priced below the price floor which will be long-run incremental cost and imputed access charges. Access charges equal to those paid by telecommunications carriers to local exchange carriers shall

be imputed as part of the price floor for toll services offered by local exchange carriers on a toll service basis.

(l) A local exchange carrier may offer promotions within an exchange or group of exchanges. All promotions shall be approved by the commission and may not be unjust, unreasonably discriminatory or unduly preferential.

(m) Unless the commission authorizes price deregulation at an earlier date, intrastate toll services within the miscellaneous services basket shall continue to be regulated until the affected local exchange carrier begins to offer 1+ intraLATA dialing parity throughout its service territory, at which time intrastate toll will be price deregulated, except that prices cannot be set below the price floor.

(n) On or before July 1, 1997, the commission shall establish guidelines for reducing regulation prior to price deregulation of price cap regulated services in the miscellaneous services basket, the switched access services basket, and the residential and single-line business basket.

(o) Subsequent to the adoption of guidelines pursuant to subsection (n), the commission shall initiate a petitioning procedure under which the local exchange carrier may request rate range pricing. The commission shall act upon a petition within 21 days, subject to a 30-day extension. The prices within a rate range shall be tariffed and shall apply to all customers in a nondiscriminatory manner in an exchange or group of exchanges.

(p) A local exchange carrier may petition the commission to designate an individual service or service category, if any, within the miscellaneous services basket, the switched access services basket or the residential and single-line business basket for reduced regulation. The commission shall act upon a petition for reduced regulation within 21 days, subject to an extension period of an additional 30 days, and upon a good cause showing of the commission in the extension order, or within such shorter time as the commission shall approve. The commission shall issue a final order within the 21-day period or within a 51-day period if an extension has been issued. Following an order granting reduced regulation of an individual service or service category, the commission shall act on any request for price reductions within seven days subject to a 30-day extension. The commission shall act on other requests for price cap adjustments, adjustments within price cap plans and on new service offerings within 21 days subject to a 30-day extension. Such a change will be presumed lawful unless it is determined the prices are below the price floor or that the price cap for a category, if any, within the entire basket has been exceeded.

(q) (1) Beginning July 1, 2006, price regulation of telecommunications services in the residential and single-line business service basket and the miscellaneous services basket for local exchange carriers subject to price cap regulation shall be as follows:



(A) Packages or bundles of services shall be price deregulated statewide, however the individual telecommunication service components of such packages or bundles shall remain available for purchase on an individual basis at prices subject to price cap regulation in any exchange in which the standards in subsection (q)(1)(B), (C) or (D) have not been met. If standards in subsection (q)(1)(B), (C) or (D) have been met, the individual telecommunication service components of such packages or bundles shall remain available for purchase on an individual basis and prices for packages or bundles shall not exceed the sum of the highest prices of the a la carte components of the package or bundle;

(B) in any exchange in which there are 75,000 or more local exchange access lines served by all providers, rates for all telecommunications services shall be price deregulated;

(C) in any exchange in which there are fewer than 75,000 local exchange access lines served by all providers, the commission shall price deregulate all business telecommunication services upon a demonstration by the requesting local telecommunications carrier that there are two or more nonaffiliated telecommunications carriers or other entities, that are nonaffiliated with the local exchange carrier, providing local telecommunications service to business customers, regardless of whether the entity provides local service in conjunction with other services in that exchange area. One of such nonaffiliated carriers or entities shall be required to be a facilities-based carrier or entity and not more than one of such nonaffiliated carriers or entities shall be a provider of commercial mobile radio services in that exchange;

(D) in any exchange in which there are fewer than 75,000 local exchange access lines served by all providers, the commission shall price deregulate all residential telecommunication services upon a demonstration by the requesting local telecommunications carrier that there are two or more nonaffiliated telecommunications carriers or other entities, that are nonaffiliated with the local exchange carrier, providing local telecommunications service to residential customers, regardless of whether the entity provides local service in conjunction with other services in that exchange area. One of such nonaffiliated carriers or entities shall be required to be a facilities-based carrier or entity and not more than one of such nonaffiliated carriers or entities shall be a provider of commercial mobile radio services in that exchange;

(E) rates for lifeline services shall remain subject to price cap regulation;

(F) up to and continuing until July 1, 2008, rates for the initial residential local exchange access line and up to four business local exchange access lines at one location shall remain subject to price cap regulation *and all other rates, except rates for switched access services, are deemed price deregulated.* On and after July 1, 2008, the local exchange carrier shall be authorized to adjust such rates without commission approval by

not more than the *greater of the* percentage increase in the consumer price index for all urban consumers, as officially reported by the bureau of labor statistics of the United States department of labor, or its successor index, *or the amount necessary to maintain the local rate floor as determined by the federal communications commission or its successor*, in any one year period and such rates shall not be adjusted below the price floor established in subsection (k). Such rates shall not be affected by purchase of one or more of the following: Call management services, intraLATA long distance service or interLATA long distance service; and

(G) local exchange carriers shall offer a uniform price throughout each such exchange for services subject to price deregulation, under this subsection, including packages or bundles of services, except as provided in subsection (1) or as otherwise approved by the commission.

(2) For the purposes of this subsection:

(A) Any entity providing voice service shall be considered as a local telecommunications service provider regardless of whether such entity is subject to regulation by the commission;

(B) a provider of local telecommunications service that requires the use of a third party, unaffiliated broadband network or dial-up internet network for the origination of local voice service shall not be considered a local telecommunications service provider;

(C) telecommunications carriers offering only prepaid telecommunications service shall not be considered entities providing local telecommunications service.

(3) If the services of a local exchange carrier are classified as price deregulated under this subsection, the carrier may thereafter adjust its rates for such price deregulated services upward or downward as it determines appropriate in its competitive environment, with tariffs for such services deemed effective upon filing with the commission. Price deregulated services shall be subject to the price floor in subsection (k), and shall not be unreasonably discriminatory or unduly preferential within an exchange.

(4) The commission shall act upon a petition filed pursuant to subsection (q)(1)(C) or (D) within 21 days, subject to an extension period of an additional 30 days, and upon a good cause showing of the commission in the extension order, or within such shorter time as the commission shall approve. The commission shall issue a final order within the 21-day period or within a 51-day period if an extension order has been issued.

(5) The commission may resume price cap regulation of a local exchange carrier, deregulated under this subsection upon finding, after a hearing, that such carrier has: Violated minimum quality of service standards pursuant to ~~subsection (1) of K.S.A. 66-2002(l)~~, and amendments thereto; been given reasonable notice and an opportunity to correct the violation; and failed to do so.

(6) The commission on July 1, 2006, and on each date that any service

is deregulated, shall record the rates of each service which has been price deregulated in each exchange.

~~(7) Prior to January 1, 2007, the commission shall determine the weighted, statewide average rate of nonwireless basic local telecommunications service as of July 1, 2006. Prior to January 1, 2007, and annually thereafter, the commission shall determine the weighted, average rate of nonwireless basic local telecommunications services in exchanges that have been price deregulated pursuant to subsection (q)(1)(B), (C) or (D). The commission shall report its findings on or before February 1, 2007, and annually thereafter to the governor, the legislature and each member of the standing committees of the house of representatives and the senate which are assigned telecommunications issues. The commission shall also provide in such annual report information on the current rates for services provided by all telecommunications carriers or other telecommunications service providers regardless of the technology used to provide service in price deregulated exchanges, service offerings provided by all telecommunications carriers or other telecommunications service providers regardless of the technology used and available in price deregulated exchanges and the number of competitors in price deregulated exchanges including, but not limited to, facilities based carriers, commercial mobile radio service or broadband based service providers.~~

~~(8)~~ For the purposes of this subsection:

(A) “Packages or bundles of services” means the offering of a local telecommunications service with one or more of the following, subscribed together, as one service option offered at one price, one or more call management services, intraLATA long distance service, interLATA long distance service, internet access, video services or wireless services. Packages or bundles of services shall not include only a single residential local exchange access line or up to four business local exchange access lines at one location and intraLATA long distance service or interLATA long distance service, or both;

(B) “local telecommunications service” means two-way voice service capable of being originated and terminated within the exchange of the local exchange telecommunications company seeking price deregulation of its services, regardless of the technology used to provision the voice service;

(C) “broadband network” means a connection that delivers services at speeds exceeding two hundred kilobits per second in both directions;

(D) “prepaid telecommunications service” means a local service for which payment is made in advance that excludes access to operator assistance and long distance service;

(E) “facilities based carrier” means a telecommunications carrier or entity providing local telecommunications service either wholly or partially over its own network. Facilities based carrier shall not include any

radio communication services provider licensed by the federal communications commission to provide commercial mobile radio services; and

(F) “call management services” means optional telecommunications services that allow a customer to manage call flow generated over the customer’s local exchange access line.

(r) (1) Upon complaint or request, the commission may investigate a price deregulated service.

(2) The commission shall resume price cap regulation of a service provided in any exchange area by placing it in the appropriate service basket, as approved by the commission, upon a determination by the commission that the conditions in subsection (q)(1)(C) or (D) are no longer satisfied in that exchange area.

(3) The commission shall resume price cap regulation of business services in any exchange meeting the conditions of subsection (q)(1)(B) by placing it in the appropriate service basket, as approved by the commission, upon a determination by the commission that the following condition is not met: There are at least two nonaffiliated telecommunications carriers or other entities, that are nonaffiliated with the local exchange carrier, providing local telecommunications service to business customers, regardless of whether the entity provides local service in conjunction with other services in that exchange area. One of such nonaffiliated carriers or entities shall be required to be a facilities-based carrier or entity and not more than one such nonaffiliated carriers or entities shall be a provider of commercial mobile radio services in that exchange.

(4) The commission shall resume price cap regulation of residential services in any exchange meeting the conditions of subsection (q)(1)(B) by placing it in the appropriate service basket, as approved by the commission, upon a determination by the commission that the following condition is not met: There are at least two or more nonaffiliated telecommunications carriers or other entities, that are nonaffiliated with the local exchange carrier, providing local telecommunications service to residential customers, regardless of whether the entity provides local service in conjunction with other services in that exchange area. One of such nonaffiliated carriers or entities shall be required to be a facilities-based carrier or entity and not more than one such nonaffiliated carriers or entities shall be a provider of commercial mobile radio services in that exchange.

(s) The commission shall require that for all local exchange carriers all such price deregulated basic intraLATA toll services be geographically averaged statewide and not be priced below the price floor established in subsection (k).

(t) Cost studies to determine price floors shall be performed as required by the commission in response to complaints. In addition, notwithstanding the exemption in subsection (b), the commission may request information necessary to execute any of its obligations under the act. In response to a complaint that a price deregulated service is priced

below the price floor set forth in subsection (k), the commission shall issue an order within 60 days after the filing of the complaint unless the complainant agrees to an extension.

(u) A local exchange carrier may ~~petition for offer individual customer pricing. The commission shall respond expeditiously to the petition within a period of not more than 30 days subject to a 30-day extension without prior approval by the commission. In response to a complaint that an individual customer pricing agreement is priced below the price floor set forth in subsection (k), the commission shall issue an order within 60 days after the filing of the complaint, unless the complainant agrees to an extension.~~

(v) No audit, earnings review or rate case shall be performed with reference to the initial prices filed as required herein.

(w) As required under K.S.A. 66-131, and amendments thereto, and except as provided for in ~~subsection (e)~~ of K.S.A. 66-2004(c), and amendments thereto, telecommunications carriers that were not authorized to provide switched local exchange telecommunications services in this state as of July 1, 1996, including cable television operators who have not previously offered telecommunications services, must receive a certificate of convenience based upon a demonstration of technical, managerial and financial viability and the ability to meet quality of service standards established by the commission. Any telecommunications carrier or other entity seeking such certificate shall file a statement, which shall be subject to the commission's approval, specifying with particularity the areas in which it will offer service, the manner in which it will provide the service in such areas and whether it will serve both business customers and residential customers in such areas. Any structurally separate affiliate of a local exchange carrier that provides telecommunications services shall be subject to the same regulatory obligations and oversight as a telecommunications carrier, as long as the local exchange carrier's affiliate obtains access to any services or facilities from its affiliated local exchange carrier on the same terms and conditions as the local exchange carrier makes those services and facilities available to other telecommunications carriers.

(x) Any local exchange carrier with a majority of the carrier's local exchange access lines in the state price deregulated pursuant to subsection (q) may elect to no longer be regulated as a local exchange carrier and, notwithstanding any other provisions, upon such election shall instead be regulated as a telecommunications carrier, except as provided in this subsection. A local exchange carrier making such election shall be referred to as an "electing carrier." A local exchange carrier may make such election by providing the commission with at least 90 days' written notice of election. The notice of election shall include a verified statement that a majority of the carrier's local exchange access lines are price deregulated. Such notification shall include information regarding the num-

ber of access lines the carrier serves in each of the carrier's exchanges. Within 45 days of receipt of such a notification, the commission shall review the information concerning the carrier's local exchange access lines and upon failure of the commission, within 45 days of receipt of the notification, to determine that a majority of such lines of the carrier are not price deregulated the commission shall designate the carrier as an electing carrier.

(y) Notwithstanding the provisions of this act, and subject to any applicable exemption from interconnection generally, a telecommunications carrier is entitled to interconnection with a local exchange carrier or an electing carrier to transmit and route voice traffic between both the telecommunications carrier and the local exchange carrier or electing carrier regardless of the technology by which the voice traffic is originated by and terminated to a consumer. The commission shall afford such telecommunications carrier all substantive and procedural rights available to such carrier regarding interconnection pursuant to 47 U.S.C. §§ 251 and 252 as in effect on the effective date of this act. Nothing in this subsection shall be construed to confer jurisdiction upon the commission for services that are exempt from or otherwise not subject to commission jurisdiction.

(z) (1) Telecommunications carriers and electing carriers shall not be subject to regulation by the commission for the provision of telecommunications services, except that the commission shall retain the authority and jurisdiction to authorize applications, suspension or cancellation of certificates of public convenience and necessity to provide local exchange or exchange access service in the state of Kansas, but the commission may not use this certification authority to regulate telecommunications carriers or electing carriers beyond the jurisdiction provided the commission in this subsection.

(2) Nothing in this section shall be construed to restrict the commission's authority and jurisdiction to:

(A) Carry out the commission's obligations established in 47 U.S.C. §§ 251 and 252;

(B) implement rules delegated to the state by the federal communications commission or federal law; or

(C) regulate intrastate switched access rates, terms and conditions, including the implementation of federal law concerning intercarrier compensation.

(3) The commission shall retain the authority and jurisdiction to:

(A) Carry out the commission's obligations pursuant to the underground utilities damage prevention act, K.S.A. 66-1801 et seq., and amendments thereto, and the overhead power line accident prevention act, K.S.A. 66-1709 et seq., and amendments thereto;

(B) require the reasonable resale of retail telecommunications services, as well as unbundling and interconnection obligations as required by K.S.A. 66-2003, and amendments thereto;

(C) administer the Kansas lifeline service program pursuant to K.S.A. 66-2006, and amendments thereto;

(D) administer contributions to the Kansas universal service fund pursuant to ~~subsection (a) of~~ K.S.A. 66-2008(a), and amendments thereto;

(E) assess costs and expenses pursuant to K.S.A. 66-1501 et seq., and amendments thereto, but the commission shall not use this authority to regulate telecommunications carriers or electing carriers beyond the jurisdiction provided the commission in this subsection;

(F) request information from telecommunications carriers and electing carriers pursuant to K.A.R. 82-1-234a(b) and subject to the provisions of K.A.R. 82-1-221a and K.S.A. 66-1220a, and amendments thereto, but the commission shall not use this authority to regulate telecommunications carriers or electing carriers beyond the jurisdiction provided the commission in this subsection; and

(G) administer consumer complaints against telecommunications carriers and electing carriers to investigate fraud, undue discrimination and other practices harmful to consumers, but the commission shall not use this authority to regulate telecommunications carriers or electing carriers beyond the jurisdiction provided the commission in this subsection.

Sec. 5. K.S.A. 2015 Supp. 66-2007 is hereby amended to read as follows: 66-2007. (a) All local exchange carriers, not including electing carriers, providing long distance service in Kansas shall reduce their statewide averaged basic long distance rates to reflect the net reductions in access charges; however, such carriers shall be allowed to increase long distance rates to reflect the KUSF funding requirements set forth in K.S.A. 66-2008, and amendments thereto.

(b) The commission shall approve, upon not more than 120 days' notice, any basic local exchange price increases that in the aggregate in any one year are \$1.50 or less per access line per month, that are proposed by any rural telephone company which is subject to traditional rate of return regulation and that comply with the requirements of this section. Any such proposed price increases shall be presumed reasonable and not subject to commission investigation and review if the rural telephone company has followed the notice requirements set forth below. However, the commission shall initiate an investigation if more than 15% of the subscribers subject to the rate increase request such an investigation within 60 days of the date of distribution of the notice of the proposed change. Upon filing such an application for a rate increase, any rural telephone company seeking expedited approval of the proposed rate under this section shall send a notice to its subscribers by regular mail, which may be included with regular subscriber mailings. Such mailings shall include the name, mailing address and telephone number of the commission. The notice shall include a schedule of the proposed local exchange rates, the effective date of the rates and a description of the

procedures by which the subscribers can petition the commission to determine the reasonableness of the proposed rates, including a provision specifically stating that protest by 15% or more of subscribers subject to the proposed rate increase would require the commission to initiate an investigation concerning the reasonableness of the proposed rate increase.

(c) The commission shall have the right to investigate and determine the reasonableness of an increase in local exchange rates and charges under subsection (b) by any rural telephone company within one year of the time local exchange rates or charges are increased. If the commission determines such rate or charge increases are unreasonable, the commission shall have the authority to order a rate hearing and, after such hearing, shall have the authority to rescind all or any portion of the increases found to be unreasonable.

(d) *The commission shall approve each application, within 45 days of such application, by a rural telephone company to increase the company's local service rates in an amount necessary for such company to maintain eligibility for full federal universal service support. If the commission does not order approval of such application within 45 days, the application shall be deemed approved.*

Sec. 6. K.S.A. 2015 Supp. 66-2008 is hereby amended to read as follows: 66-2008. On or before January 1, 1997, the commission shall establish the Kansas universal service fund, hereinafter referred to as the KUSF.

(a) The commission shall require every telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate telecommunications services and, to the extent not prohibited by federal law, every provider of interconnected VoIP service, as defined by ~~47 C.F.R. § 9.3 (October 1, 2005)~~ 47 C.F.R. 9.3, to contribute to the KUSF *based upon the provider's intrastate telecommunications services net retail revenues* on an equitable and non-discriminatory basis. *The commission shall not require any provider to contribute to the KUSF under a different contribution methodology than such provider uses for purposes of the federal universal service fund, including for bundled offerings.* Any telecommunications carrier, telecommunications public utility, wireless telecommunications service provider or provider of interconnected VoIP service which contributes to the KUSF may collect from customers an amount equal to such carrier's, utility's or provider's contribution, but such carrier, provider or utility may collect a lesser amount from its customer.

Any contributions in excess of distributions collected in any reporting year shall be applied to reduce the estimated contribution that would otherwise be necessary for the following year.

(b) Pursuant to the federal act, distributions from the KUSF shall be



made in a competitively neutral manner to qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications providers, that are deemed eligible both under subsection (e)(1) of section 214 of the federal act and by the commission.

(c) Beginning January 1, 2014:

(1) Annual distributions from the KUSF for a local exchange carrier subject to price cap regulation pursuant to K.S.A. 66-2005, and amendments thereto, shall be capped at the lesser of:

(A) 90% of KUSF support the carrier received for the 12-month period ending February 28, 2013; or

(B) \$11,400,000.

The amounts prescribed in subparagraph (A) or (B) shall not include KUSF support for Kansas lifeline service program purposes, pursuant to K.S.A. 66-2006, and amendments thereto.

(2) Local exchange carriers subject to price cap regulation pursuant to K.S.A. 66-2005, and amendments thereto, shall not receive KUSF support for any residential or business lines within an exchange that the commission has granted price deregulation pursuant to ~~subsections (q)(1)(B), (C) or (D) of K.S.A. 66-2005~~ *(q)(1)(B), (C) or (D)*, and amendments thereto, except for areas within any census block in such an exchange in which there is no wireline carrier providing local exchange access lines that does not receive KUSF support, not including KUSF support for Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and amendments thereto, for such access lines.

(3) Local exchange carriers subject to price cap regulation pursuant to K.S.A. 66-2005, and amendments thereto, shall receive the same per line, per month KUSF support as established in the April 13, 2000 notice in commission docket numbers 99-GIMT-326-GIT and 00-GIMT-236-GIT subject to the cap percentage in subsection (c)(1), not including KUSF support for Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and amendments thereto, except that the amount shall be reduced by any funding received by such carrier from the federal communication commission's connect America fund II for the same household, if feasible, or for the same census block.

(4) The commission shall discontinue the use of the "identical support" rule and shall cap all competitive eligible telecommunications carriers' KUSF high cost support as of March 1, 2013, and beginning March 1, 2014, over a period of four years in annual equal increments, reduce to zero, beginning March 1, 2018, the amount of KUSF high cost support received by competitive eligible telecommunications carriers. Nothing in this section shall be construed to affect competitive eligible telecommunications carriers' eligibility for Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and amendments thereto. For the purposes of this subsection, "competitive eligible telecommunications carrier" means a telecommunications carrier designated by the commission as an

eligible telecommunications carrier after January 1, 1998. “Competitive eligible telecommunications carrier” shall not mean any local exchange carrier or any electing carrier designated by the commission as an eligible telecommunications carrier by order dated December 5, 1997, in docket No. 98-GIMT-241-GIT, or any such local exchange carrier’s or electing carrier’s successors or assigns.

(5) An electing carrier shall no longer be eligible to receive high cost support from the KUSF.

(d) (1) Subject to paragraph (2), the commission may periodically review the KUSF to determine if the costs of qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications service providers to provide local service justify modification of the KUSF. If the commission determines that any changes are needed, the commission shall modify the KUSF accordingly and annually report such changes to the senate standing committee on utilities and the house standing committee on utilities and telecommunications.

(2) The commission shall undertake a review of the capped amount of KUSF support available for each local exchange carrier operating under price cap regulation that receives such support, not including Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and amendments thereto, and determine if a lesser amount is appropriate for KUSF distributions after March 1, 2019. Reviews of such carriers shall be based on the forward-looking costs of providing basic voice service, using inputs that reflect the actual geography being served and that reflect the scale and scope of the local exchange carrier providing basic local voice service within each exchange.

(e) (1) For each local exchange carrier electing pursuant to ~~subsection (b) of K.S.A. 66-2005(b)~~, and amendments thereto, to operate under traditional rate of return regulation, all KUSF support, including any adjustment thereto pursuant to this section, shall ~~be based on~~ *ensure the reasonable opportunity for recovery of such carrier’s intrastate* embedded costs, revenue requirements, investments and expenses, *subject to the annual cap established pursuant to subsection (e)(3).* ~~Until at least March 1, 2017,~~ Any modification of such support shall be made only as a direct result of changes in those factors enumerated in this subsection. Nothing in this subsection shall prohibit the commission from conducting a general investigation regarding effects of federal universal service reform on KUSF support and the telecommunications public policy of the state of Kansas as expressed in K.S.A. 66-2001, and amendments thereto. The commission may present any findings and recommendations to the telecommunications study committee established in K.S.A. 2015 Supp. 66-2018, and amendments thereto.

(2) Notwithstanding any other provision of law, no KUSF support received by a local exchange carrier electing pursuant to ~~subsection (b) of K.S.A. 66-2005(b)~~, and amendments thereto, to operate under tradi-

tional rate of return regulation shall be used to offset any ~~loss reduction~~ of federal universal service fund support for *recovery of such carrier*, ~~except that such limitation on KUSF support shall not preclude recovery of reductions in intrastate access revenue pursuant to subsection (c) of K.S.A. 66-2005, and amendments thereto~~ *carrier's interstate costs and investments.*

(3) Notwithstanding any other provision of law, the total KUSF distributions, *not to include KUSF support for Kansas lifeline service program purposes, pursuant to K.S.A. 66-2006, and amendments thereto*, made to all local exchange carriers operating under traditional rate of return regulation pursuant to ~~subsection (b) of K.S.A. 66-2005(b)~~, and amendments thereto, shall not exceed an annual \$30,000,000 cap. *In any year that the total KUSF support for such carriers would exceed the annual cap, each carrier's KUSF support shall be proportionately based on the amount of support each such carrier would have received absent the cap.* A waiver of the cap shall be granted based on a demonstration by a carrier that such carrier would experience significant hardship due to force majeure or natural disaster as determined by the commission.

(f) Additional supplemental funding from the KUSF, other than as provided in subsection (e), may be authorized at the discretion of the commission. However, the commission may require approval of such funding to be based upon a general rate case filing. With respect to any request for additional supplemental funding from the KUSF and to any audit of a rural telephone company's KUSF support, the commission shall act expeditiously, and shall be subject to the 240-day deadline for rate case applications pursuant to K.S.A. 66-117, and amendments thereto.

Sec. 7. K.S.A. 2015 Supp. 66-2017 is hereby amended to read as follows: 66-2017. (a) Except as otherwise provided in this section, no VoIP service, IP-enabled service, or any combination thereof, shall be subject to the jurisdiction of, regulation by, supervision of or control by any state agency or political subdivision of the state.

(b) VoIP services shall be subject to:

(1) The requirements of K.S.A. 66-2008, and amendments thereto, pertaining to the Kansas universal service fund (KUSF). The provisions of subsection (a) shall not affect or restrict eligibility for KUSF support; and

(2) the requirements of the Kansas 911 act, K.S.A. 2015 Supp. 12-5362 et seq., and amendments thereto.

(c) No provision of this section shall be construed to modify:

(1) The requirements of the video competition act, K.S.A. 2015 Supp. 12-2021 et seq., and amendments thereto;

(2) the state corporation commission's authority under 47 U.S.C. §§ 251 and 252, as in effect on the effective date of this act. For the purposes of this paragraph, the term "state commission" used in 47 U.S.C. §§ 251

and 252 shall mean the state corporation commission established pursuant to K.S.A. 74-601, and amendments thereto;

(3) the authority of the state of Kansas or a political subdivision thereof to manage the use of public rights-of-way pursuant to K.S.A. 17-1902, and amendments thereto; ~~or~~

(4) the rights and obligations of ~~subsection (y)~~ of K.S.A. 66-2005(y), and amendments thereto; *or*

(5) *the regulation of any rural telephone company.*

(d) For the purposes of this section:

(1) “Internet protocol enabled service” or “IP-enabled service” means any service, capability, functionality, or application using an internet protocol (IP) that enables an end user to send or receive a voice, data or video communication in an IP format.

(2) “Political subdivision” shall have the meaning ascribed to such term in K.S.A. 28-137b, and amendments thereto.

(3) “State agency” shall have the meaning ascribed to such term in K.S.A. 75-3701, and amendments thereto.

(4) “Voice over Internet Protocol” or “VoIP” is any service that:

(A) Uses an internet protocol (IP) to enable real-time, two-way voice communication that originates from, or terminates at, the user’s location in an IP;

(B) utilizes a broadband connection from the user’s location; and

(C) permits a user to receive a call that originates on the public switched telephone network (PSTN) and to terminate a call to the PSTN.

Sec. 8. K.S.A. 66-2004 and K.S.A. 2015 Supp. 66-2005, 66-2007, 66-2008 and 66-2017 are hereby repealed.

Sec. 9. On and after October 1, 2016, K.S.A. 17-1902 is hereby repealed.

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

Approved April 6, 2016.

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## CHAPTER 41

## SENATE BILL No. 314

AN ACT concerning the local food and farm task force; extending the expiration date; amending K.S.A. 2015 Supp. 2-3805 and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 2-3805 is hereby amended to read as follows: 2-3805. ~~(a) There is hereby established the local food and farm task force. The local food and farm task force shall be comprised of seven members, as follows:~~

~~(1) Three members appointed by the governor, including the chairperson of the task force;~~

~~(2) one member representing the Kansas department of agriculture appointed by the secretary of agriculture;~~

~~(3) one member representing the Kansas state university extension systems and agriculture research programs appointed by the dean of the college of agriculture of Kansas state university; and~~

~~(4) one member of the house committee on agriculture and natural resources appointed by the chairperson of the house committee on agriculture and natural resources and one member of the senate committee on agriculture appointed by the chairperson of the senate committee on agriculture. The legislative members shall be from different political parties.~~

~~(b) Members shall be appointed to the task force on or before August 1, 2014. The first meeting of the task force shall be called by the chairperson on or before September 1, 2014. Any vacancy in the membership of the task force shall be filled by appointment in the same manner prescribed by this section for the original appointment.~~

~~(c) (1) 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 four members. All actions of the task force shall be by motion adopted by a majority of those members present when there is a quorum.~~

~~(2) The staff of the Kansas department of agriculture and the legislative research department shall provide such assistance as may be requested by the task force. To facilitate the organization and start up of such plan and structure, the Kansas department of agriculture shall provide administrative assistance.~~

~~(d) The local food and farm task force shall prepare a local food and farm plan containing policy and funding recommendations for expanding and supporting local food systems and for assessing and overcoming obstacles necessary to increase locally grown food production. The task force chairperson shall submit such plan to the senate committee on agriculture and the house committee on agriculture and natural resources at the~~

~~beginning of the 2016 regular session of the legislature. The plan shall include:~~

~~(1) Identification of financial opportunities, technical support and training necessary for local and specialty crop production;~~

~~(2) identification of strategies and funding needs to make fresh and affordable locally grown foods more accessible;~~

~~(3) identification of existing local food infrastructures for processing, storing and distributing food and recommendations for potential expansion; and~~

~~(4) strategies for encouragement of farmers' markets, roadside markets and local grocery stores in unserved and underserved areas.~~

~~(c) The task force shall cease to exist on December 31, 2015.~~

*(a) There is hereby established the local food and farm task force. The local food and farm task force shall be comprised of seven members, as follows:*

*(1) Three members appointed by the governor, including the chairperson of the task force;*

*(2) one member representing the Kansas department of agriculture appointed by the secretary of agriculture;*

*(3) one member representing the Kansas state university extension systems and agriculture research programs appointed by the dean of the college of agriculture of Kansas state university; and*

*(4) one member of the house committee on agriculture and natural resources appointed by the chairperson of the house committee on agriculture and natural resources and one member of the senate committee on agriculture appointed by the chairperson of the senate committee on agriculture. The legislative members shall be from different political parties.*

*(b) Members shall be appointed to the task force on or before August 1, 2016. The first meeting of the task force shall be called by the chairperson on or before September 1, 2016, or as soon as appointments are made. Any vacancy in the membership of the task force shall be filled by appointment in the same manner prescribed by this section for the original appointment.*

*(c) (1) 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 four members. All actions of the task force shall be by motion adopted by a majority of those members present when there is a quorum.*

*(2) The staff of the Kansas department of agriculture and the legislative research department shall provide such assistance as may be requested by the task force. To facilitate the organization and start-up of such plan and structure, the Kansas department of agriculture shall provide administrative assistance.*

*(3) Members of the task force attending regular meetings authorized by the task force, and requesting reimbursement, shall be paid amounts*

for mileage as provided by K.S.A. 75-3223(c), and amendments thereto, for no more than four meetings.

(d) *The local food and farm task force shall prepare a local food and farm plan containing policy and funding recommendations for expanding and supporting local food systems and for assessing and overcoming obstacles necessary to increase locally grown food production. The task force chairperson shall submit such plan to the senate committee on agriculture and the house committee on agriculture and natural resources at the beginning of the 2017 regular session of the legislature. The plan shall include:*

(1) *Identification of financial opportunities, technical support and training necessary to expand production and sales of locally grown agricultural products;*

(2) *identification of strategies and funding needs to make locally grown foods more accessible;*

(3) *identification of factors affecting affordability and profitability of locally grown foods;*

(4) *identification of existing local food infrastructures for processing, storing and distributing food and recommendations for potential expansion; and*

(5) *strategies for encouragement of farmers' markets, roadside markets and local grocery stores in unserved and underserved areas.*

(e) *This section shall expire on July 1, 2017.*

Sec. 2. K.S.A. 2015 Supp. 2-3805 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 6, 2016.

Published in the *Kansas Register* April 14, 2016.

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## CHAPTER 42

### SENATE BILL No. 443°

AN ACT declaring the cage elevator in the Kansas state capitol building as the official cage elevator of the state of Kansas.

WHEREAS, It is critical that historical items of lasting interest are preserved; and

WHEREAS, There is a critical age for objects that are considered outdated but are not yet rare enough to be considered worthy of preservation; and

WHEREAS, Generations to follow will live with regret if such items are destroyed for all time; and

WHEREAS, School children may be observed daily studying closely and understanding clearly the mechanical operation of this passenger elevator in a way beyond the ability of books to describe; and

WHEREAS, Kansas is unique in many ways, the heart of the nation, the crossroads of the continent, born out of a struggle for human freedom; and

WHEREAS, No one can criticize this state for any lag in mechanical advances since many of the planes for the world come from the plains of Kansas; and

WHEREAS, In years to come, visitors to the Kansas state capitol building will express appreciation that this passenger elevator with its openness was preserved in operating condition.

Now, therefore:

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

Section 1. The cage elevator located in the Kansas state capitol building is hereby designated the official cage elevator for the state of Kansas. The cage elevator, installed in 1923, shall be maintained in operating condition for the enjoyment of state officials, workers and visitors to the Kansas state capitol building.

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

Approved April 6, 2016.

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## CHAPTER 43

House Substitute for SENATE BILL No. 55

AN ACT concerning health care facilities; relating to correction orders; civil penalties; amending K.S.A. 2015 Supp. 39-945 and 39-946 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 39-945 is hereby amended to read as follows: 39-945. (a) A correction order may be issued by the secretary for aging and disability services or the secretary's designee to a person licensed to operate an adult care home whenever the state fire marshal or the marshal's representative or a duly authorized representative of the secretary for aging and disability services inspects or investigates an adult care home and determines that the adult care home is not in compliance with the provisions of article 9 of chapter 39 of the Kansas Statutes Annotated, *and amendments thereto*, or rules and regulations promulgated thereunder which individually or jointly affects significantly and adversely the health, safety, nutrition or sanitation of the adult care home residents.



The correction order shall be served upon the licensee either personally or by certified mail, return receipt requested. The correction order shall be in writing, shall state the specific deficiency, cite the specific statutory provision or rule and regulation alleged to have been violated, and shall specify the time allowed for correction.

*(b) A correction order may be issued by the secretary for aging and disability services or the secretary's designee to a person licensed to operate a health care facility whenever a duly authorized representative of the secretary for aging and disability services determines that the health care facility is not in compliance with the provisions of article 34 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations promulgated thereunder. The correction order shall be served upon the licensee either personally or by certified mail, return receipt requested. The correction order shall be in writing, shall cite the specific statutory provision or rule and regulation alleged to have been violated and shall specify the time allowed for correction. For purposes of this section, "health care facility" has the meaning ascribed to such term by K.S.A. 40-3401, and amendments thereto.*

Sec. 2. K.S.A. 2015 Supp. 39-946 is hereby amended to read as follows: 39-946. (a) If upon reinspection by the state fire marshal or the marshal's representative or a duly authorized representative of the secretary for aging and disability services, which reinspection shall be conducted within 14 days from the day the correction order is served upon the licensee, it is found that the licensee of the adult care home which was issued a correction order has not corrected the deficiency or deficiencies specified in the order, *or has failed to comply with the provisions of article 34 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations promulgated thereunder*, the secretary for aging and disability services may assess a civil penalty in an amount not to exceed \$500 per day per deficiency against the licensee of an adult care home for each day subsequent to the day following the time allowed for correction of the deficiency as specified in the correction order that the adult care home has not corrected the deficiency or deficiencies listed in the correction order, but the maximum assessment shall not exceed \$2,500. A written notice of assessment shall be served upon the licensee of an adult care home either personally or by certified mail, return receipt requested.

(b) Before the assessment of a civil penalty, the secretary for aging and disability services shall consider the following factors in determining the amount of the civil penalty to be assessed: (1) The severity of the violation; (2) the good faith effort exercised by the adult care home to correct the violation; and (3) the history of compliance of the ownership of the adult care home with the rules and regulations. If the secretary for aging and disability services finds that some or all deficiencies cited in

the correction order have also been cited against the adult care home as a result of any inspection or investigation which occurred within 18 months prior to the inspection or investigation which resulted in such correction order, the secretary for aging and disability services may double the civil penalty assessed against the licensee of the adult care home, the maximum not to exceed \$5,000.

(c) All civil penalties assessed shall be due and payable within 10 days after written notice of assessment is served on the licensee, unless a longer period of time is granted by the secretary. If a civil penalty is not paid within the applicable time period, the secretary for aging and disability services may file a certified copy of the notice of assessment with the clerk of the district court in the county where the adult care home is located. The notice of assessment shall be enforced in the same manner as a judgment of the district court.

Sec. 3. K.S.A. 2015 Supp. 39-945 and 39-946 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 6, 2016.

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## CHAPTER 44

Substitute for SENATE BILL No. 99

AN ACT concerning the uniform act regulating traffic; relating to height, weight and length of vehicles and loads; exceptions to maximums; amending K.S.A. 8-1905 and 8-1909 and K.S.A. 2015 Supp. 8-1904 and repealing the existing sections.

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

Section 1. K.S.A. 2015 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 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) *and* (i), 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 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 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. *A stinger-steered automobile transporter shall*

not exceed an overall length limit of 80 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 saddlemount with fullmount vehicle transporter combination shall not exceed an extreme overall dimension of 97 feet.

(i) *The length limitations of this section shall not apply to a one truck-tractor two trailer combination or one truck-tractor semitrailer trailer combination used in transporting equipment utilized by custom harvesters under contract to agricultural producers to harvest wheat, soybeans or milo, during the months of April through November, but the length of the property-carrying units, excluding load, shall not exceed 81½ feet.*

Sec. 2. K.S.A. 8-1905 is hereby amended to read as follows: 8-1905.

(a) The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, shall not extend more than three-~~(3)~~ feet beyond the front wheels of such vehicle or the front bumper of such vehicle if it is equipped with a bumper.

(b) Any vehicle or combination of vehicles transporting passenger vehicles or other motor vehicles may carry a load which extends no more than ~~three (3)~~ four feet beyond the front and ~~four (4)~~ six feet beyond the rear of the transporting vehicle or combination of vehicles.

Sec. 3. K.S.A. 8-1909 is hereby amended to read as follows: 8-1909.

(a) No vehicle or combination of vehicles shall be moved or operated on any highway when the gross weight on two or more consecutive axles exceeds the limitations prescribed in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles						
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles
4.....	34,000						
5.....	34,000						
6.....	34,000						
7.....	34,000						
8 and less .....	34,000	34,000					
More than 8.....	38,000	42,000					
9.....	39,000	42,500					
10.....	40,000	43,500					
11.....		44,000					
12.....		45,000	50,000				
13.....		45,500	50,500				
14.....		46,500	51,500				
15.....		47,000	52,000				
16.....		48,000	52,500	58,000			
17.....		48,500	53,500	58,500			
18.....		49,500	54,000	59,000			
19.....		50,000	54,500	60,000			

20 .....	51,000	55,500	60,500	66,000			
21 .....	51,500	56,000	61,000	66,500			
22 .....	52,500	56,500	61,500	67,000			
23 .....	53,000	57,500	62,500	68,000			
24 .....	54,000	58,000	63,000	68,500	74,000		
25 .....	54,500	58,500	63,500	69,000	74,500		
26 .....	55,500	59,500	64,000	69,500	75,000		
27 .....	56,000	60,000	65,000	70,000	75,500		
28 .....	57,000	60,500	65,500	71,000	76,500	82,000	
29 .....	57,500	61,500	66,000	71,500	77,000	82,500	
30 .....	58,500	62,000	66,500	72,000	77,500	83,000	
31 .....	59,000	62,500	67,500	72,500	78,000	83,500	
32 .....	60,000	63,500	68,000	73,000	78,500	84,500	
33 .....		64,000	68,500	74,000	79,000	85,000	
34 .....		64,500	69,000	74,500	80,000	85,500	
35 .....		65,500	70,000	75,000	80,500		
36 .....		66,000	70,500	75,500	81,000		
37 .....		66,500	71,000	76,000	81,500		
38 .....		67,500	72,000	77,000	82,000		
39 .....		68,000	72,500	77,500	82,500		
40 .....		68,500	73,000	78,000	83,500		
41 .....		69,500	73,500	78,500	84,000		
42 .....		70,000	74,000	79,000	84,500		
43 .....		70,500	75,000	80,000	85,000		
44 .....		71,500	75,500	80,500	85,500		
45 .....		72,000	76,000	81,000			
46 .....		72,500	76,500	81,500			
47 .....		73,500	77,500	82,000			
48 .....		74,000	78,000	83,000			
49 .....		74,500	78,500	83,500			
50 .....		75,500	79,000	84,000			
51 .....		76,000	80,000	84,500			
52 .....		76,500	80,500	85,000			
53 .....		77,500	81,000	85,500			

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles						
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles
54 .....			78,000	81,500			
55 .....			78,500	82,500			
56 .....			79,500	83,000			
57 .....			80,000	83,500			
58 .....				84,000			
59 .....				85,000			
60 .....				85,500			

except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axles is 36 feet or more.

(1) The gross weight on any one axle of a vehicle shall not exceed the limits prescribed in K.S.A. 8-1908, and amendments thereto.

(2) *Except as otherwise provided by subsection (e), for vehicles and*

combinations of vehicles on the interstate system the table in this section shall not authorize a maximum gross weight of more than 80,000 pounds.

(3) The table in this section shall not apply to truck tractor and dump semitrailer or truck trailer combination when such are used as a combination unit exclusively for the transportation of sand, salt for highway maintenance operations, gravel, slag stone, limestone, crushed stone, cinders, coal, blacktop, dirt or fill material, when such vehicles are used for transportation to a construction site, highway maintenance or construction project or other storage facility, except that such vehicles or combination of vehicles shall not be exempted from any application of the table as may be required to determine applicable axle weights for triple and quad axles as defined in K.S.A. 8-1908, and amendments thereto. As used in this ~~subpart~~ *paragraph* (3), the term “dump semitrailer” means any semitrailer designed in such a way as to divest itself of the load carried thereon.

(b) Any vehicle registered under the laws of this state which vehicle is designed and used primarily for the transportation of property or for the transportation of 10 or more persons may, at the time of its registration, be subjected by the director of vehicles to investigation or test as may be necessary to enable such director to determine whether such vehicle may safely be operated upon the highways in compliance with all provisions of this act. Every such vehicle shall meet the following requirements:

(1) It shall be equipped with brakes as required in K.S.A. 8-1734, and amendments thereto.

(2) Every motor vehicle to be operated outside of business and residence districts shall have motive power adequate to propel such vehicle and any load thereon or to be drawn thereby, at a speed which will not impede or block the normal and reasonable movement of traffic. Exception to this requirement shall be recognized when reduced speed is necessary for safe operation or when a vehicle or combination of vehicles is necessarily or in compliance with law or police direction proceeding at reduced speed.

(c) It shall be unlawful for any person to operate any vehicle or combination of vehicles with a gross weight in excess of the limitations set forth in article 19 of chapter 8 of Kansas Statutes Annotated, *and amendments thereto*, except as provided in K.S.A. 8-1911, and amendments thereto.

(d) As used in this section, “interstate system” means the national system of interstate and defense highways.

(e) *A vehicle, if operated by an engine fueled primarily by natural gas, may exceed any vehicle weight limit under this section, up to a maximum gross vehicle weight of 82,000 pounds, by an amount that is equal to the difference between:*

(1) *The weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle; and*

(2) *the weight of a comparable diesel tank and fueling system.*

Sec. 4. K.S.A. 8-1905 and 8-1909 and K.S.A. 2015 Supp. 8-1904 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 6, 2016.

Published in the *Kansas Register* April 14, 2016.

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CHAPTER 45

Senate Substitute for HOUSE BILL No. 2655

TO \_\_\_\_\_ SEC.  
Education, department of ..... 1

AN ACT concerning education; relating to the financing and instruction thereof; making and concerning appropriations for the fiscal year ending June 30, 2017, for the department of education; relating to the classroom learning assuring student success act; amending K.S.A. 2015 Supp. 72-6463, 72-6465, 72-6474, 72-6476, 72-6481 and 74-4939a and repealing the existing sections.

WHEREAS, The people of Kansas, through section 6(b) of article 6 of the constitution of the state of Kansas, declared that “the legislature shall make suitable provision for finance of the educational interests of the state.” According to the supreme court, this provision contains both an adequacy and equity component. On February 11, 2016, the supreme court ruled that funds provided to the school districts under the existing school finance legislation for local option budget equalization and capital outlay equalization were not equitably distributed among the school districts; and

WHEREAS, The supreme court issued an order directing the legislature to fairly allocate resources among the school districts by providing “reasonably equal access to substantially similar education opportunity through similar tax effort.” The supreme court warned that, if no action is taken by June 30, 2016, and because an unconstitutional system is invalid, it may entertain a motion to enjoin funding the school system for the 2016-2017 school year; and

WHEREAS, The legislature is committed to avoiding any disruption to public education and desires to meet its obligation; and

WHEREAS, After hearing evidence concerning varying proposals for this body to continue providing an adequate public education while satisfying the supreme court’s equity issue, the legislature is acting on this

bill in an expedited manner so that the schools will open, as scheduled, for the 2016-2017 school year; and

WHEREAS, This step, while important, is only the first of many. Upon enactment of this legislation, the legislature will immediately return to the task of finding a long-term solution, based upon a broad base of stakeholders, that will continue to provide all Kansas students the opportunity to pursue their chosen desires through an excellent public education.

Now, therefore:

*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, 2017, the following:

Supplemental general state aid.....	\$367,582,721
School district equalization state aid.....	\$61,792,947

(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:

School district capital outlay state aid fund.....	\$50,780,296
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*Provided*, That if the amount of the demand transfer from the state general fund to the school district capital outlay state aid fund of the department of education pursuant to section 4(c), and amendments thereto, exceeds the expenditure limitation established pursuant to this subsection on the school district capital outlay state aid fund, then the expenditure limitation on the school district capital outlay state aid fund is hereby increased by the amount of moneys transferred from the school district extraordinary need fund of the department of education to the school district capital outlay state aid fund pursuant to subsection (e).

(c) On July 1, 2016, of the \$2,759,751,285 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 54(c) of 2016 House Substitute for Senate Bill No. 161 from the state general fund in the block grants to USDs account (652-00-1000-0500), the sum of \$477,802,500 is hereby lapsed.

(d) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 3(b) of chapter 4 of the 2015 Session Laws of Kansas on the school district extraordinary need fund of the department of education is hereby decreased from \$17,521,425 to \$15,167,962: *Provided, however*, That if any transfer of moneys by the director of accounts and reports from the school district extraordinary need fund of the department of education is made pursuant to subsection



(e), then the expenditure limitation established pursuant to this subsection on the school district extraordinary need fund is hereby decreased from \$15,167,962 to \$15,167,962 minus the amount of moneys certified by the state board of education to be transferred pursuant to subsection (e).

(e) On July 1, 2016, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$15,167,962 from the state general fund to the school district extraordinary need fund of the department of education: *Provided, however*, That if sufficient moneys are not available in the supplemental general state aid account of the state general fund to fully fund the provisions of section 3, and amendments thereto, then the state board of education shall certify the amount of moneys of such insufficient funds to the director of accounts and reports: *And provided*, That upon receipt of any such certification, the director of accounts and reports shall transfer the amount of such insufficient funds certified from the school district extraordinary need fund of the department of education to the supplemental general state aid account of the state general fund: *And provided however*, That if the amount of the demand transfer from the state general fund to the school district capital outlay state aid fund of the department of education pursuant to section 4(c), and amendments thereto, exceeds \$50,780,296, then the state board of education shall certify the amount of moneys equal to the difference between \$50,780,296 and the amount of such demand transfer to the director of accounts and reports: *And provided*, That upon receipt of any such certification, the director of accounts and reports shall transfer the amount of such difference certified from the school district extraordinary need fund of the department of education to the school district capital outlay state aid fund of the department of education: *And provided further*, That, at the same time as the state board of education transmits each such certification to the director of accounts and reports, the state board of education shall transmit a copy of such certification to the director of legislative research.

(f) During the fiscal year ending June 30, 2017, the total amount of transfers from the school district extraordinary need fund of the department of education pursuant to this section shall not exceed \$15,167,962.

New Sec. 2. (a) The legislature hereby declares that the intent of this act is to ensure that public school students receive a constitutionally adequate education through a fair allocation of resources among the school districts and that the distribution of these funds does not result in unreasonable wealth-based disparities among districts. In particular, the legislature: (1) Has been advised of the constitutional standard for equity as set forth in the supreme court's ruling in *Gannon v. State*, Case No. 113,267, \_\_\_ Kan. \_\_\_, 2016 WL 540725 (Feb. 11, 2016), including preceding school finance decisions; (2) endeavored to memorialize the

legislative evidence and deliberations conferees shared as the legislature considered the best way to meet this constitutional standard; and (3) arrived at the best solution to discharge its constitutional duty to make suitable provision for finance of the educational interests of the state. To this end, this legislation shall be liberally construed so as to make certain that no funding for public schools will be enjoined.

(b) The legislature has been advised that funding disruptions and uncertainty are counter-productive to public education and that the funding certainty of the classroom learning assuring student success act is critical to the effective operation of school districts. Furthermore, the evidence before the legislature confirms that the total amount of school funding meets or exceeds the supreme court's standard for adequacy. As a result, the legislature believes that it has enacted legislation that both fairly meets the equity requirements of article 6 of the constitution of the state of Kansas and does not run afoul of the already adequate funding as demonstrated by the excellent results of the public education system made known to the legislature.

(c) The legislature hereby finds and declares the following:

(1) That, based on testimony from the state department of education and other parties involved in the public education system, a hold harmless fund is necessary in light of the fact that many school budgets are set based upon the provisions of the classroom learning assuring student success act;

(2) that the prior equalization formulas used for capital outlay state aid and supplemental general state aid had no basis in educational policy, and that it is preferable to apply a single equalization formula to both categories of state aid;

(3) that this act fully complies with the supreme court's order, but that there is an untenable risk the act may be found to be unconstitutional and, as a result, all educational funding could be enjoined. The risk of disrupting education in this regard is unacceptable to the legislature, and as a result, the provisions of this act should be considered as severable; and

(4) that, based on testimony from the state department of education, the state board of education may be able to more quickly respond to and address concerns raised by the school districts, including, without limitation, emergency needs or a demonstrated inability to have reasonably equal access to substantially similar educational opportunities through similar tax effort.

New Sec. 3. (a) For school year 2016-2017, each school district that has adopted a local option budget is eligible to receive an amount of supplemental general state aid. A school district's eligibility to receive supplemental general state aid shall be determined by the state board 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. 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 of the local option budget adopted by each school district pursuant to K.S.A. 2015 Supp. 72-6471, and amendments thereto; and

(6) multiply the amount computed under subsection (a)(5) by the applicable state aid percentage factor. The resulting product is the amount of payment the school district is to receive as supplemental general state aid in the school year.

(b) 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 school 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 school district, and the director of accounts and reports shall draw a warrant on the state treasury 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 supplemental general fund of the school district to be used for the purposes of such fund.

(c) 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.

(d) If the amount of appropriations for supplemental general state aid is less than the amount each school district is to receive for the school year, the state board shall prorate the amount appropriated among the school districts in proportion to the amount each school district is to receive as determined under subsection (a).

(e) The provisions of this section shall be part of and supplemental to the classroom learning assuring student success act.

(f) The provisions of this section shall expire on June 30, 2017.

New Sec. 4. (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) For school year 2016-2017, each school district which levies a tax pursuant to K.S.A. 72-8801 et seq., and amendments thereto, shall 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. 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; and

(6) multiply the amount computed under subsection (b)(5), but not to exceed 8 mills, by the applicable state aid percentage factor. The resulting product is the amount of payment the school district is 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 amount of school district capital outlay state aid determined under the provisions of subsection (b), and an amount equal thereto shall be transferred by the director from the state general fund to the school district capital outlay state aid fund for distribution to school districts. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund.

(d) Payments from the school district capital outlay state aid fund shall be distributed to school districts at times determined by the state board of education. The state board of education shall certify to the director of accounts and reports the amount due each school district, and the director of accounts and reports shall draw a warrant on the state treasury 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) The provisions of this section shall be part of and supplemental to the classroom learning assuring student success act.

(f) The provisions of this section shall expire on June 30, 2017.

New Sec. 5. (a) For school year 2016-2017, the state board of education shall disburse school district equalization state aid to each school district that is eligible to receive such state aid. In determining whether a school district is eligible to receive school district equalization state aid, the state board shall:

(1) Determine the aggregate amount of supplemental general state aid and capital outlay state aid such school district is to receive for school year 2016-2017 under sections 3 and 4, and amendments thereto, respectively;

(2) determine the aggregate amount of supplemental general state aid and capital outlay state aid such school district received as a portion of general state aid for school year 2015-2016 under K.S.A. 2015 Supp. 72-6465, and amendments thereto;

(3) subtract the amount determined under subsection (a)(1) from the

amount determined under (a)(2). If the resulting difference is a positive number, then the school district is eligible to receive school district equalization state aid.

(b) The amount of school district equalization state aid an eligible school district is to receive shall be equal to the amount calculated under subsection (a)(3).

(c) The state board shall prescribe the dates upon which the distribution of payments of school district equalization state aid to school districts shall be due. Payments of school district equalization state aid shall be distributed to school 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 school district, and the director of accounts and reports shall draw a warrant on the state treasury 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 general fund of the school district to be used for the purposes of such fund.

(d) The provisions of this section shall be part of and supplemental to the classroom learning assuring student success act.

(e) The provisions of this section shall expire on June 30, 2017.

Sec. 6. K.S.A. 2015 Supp. 72-6463 is hereby amended to read as follows: 72-6463. (a) The provisions of K.S.A. 2015 Supp. 72-6463 through 72-6481, *and sections 3 through 5*, and amendments 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.

Sec. 7. K.S.A. 2015 Supp. 72-6465 is hereby amended to read as follows: 72-6465. (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)~~ (c) through ~~(f)~~ (g), 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. 2015 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 K.S.A. 2015 Supp. 72-6473, 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 K.S.A. 2015 Supp. 72-6474, and amendments thereto, provided; the school district has levied such tax;  
*and*

(C) an amount that is directly attributable to the proceeds of the tax

levied by the school district pursuant to K.S.A. 2015 Supp. 72-6475, 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. 2015 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 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 (c) through (g), 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. 2015 Supp. 72-3715, and amendments thereto, plus;*

*(2) (A) an amount that is directly attributable to the proceeds of the tax levied by the school district pursuant to K.S.A. 2015 Supp. 72-6473, 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 K.S.A. 2015 Supp. 72-6474, and amendments thereto, provided the school district has levied such tax; and*

*(C) an amount that is directly attributable to the proceeds of the tax levied by the school district pursuant to K.S.A. 2015 Supp. 72-6475, and amendments thereto, provided the school district has levied such tax, plus;*

*(3) the amount of virtual school state aid such school district is to receive under K.S.A. 2015 Supp. 72-3715, and amendments thereto, plus;*

*(4) 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;*

*(5) an amount equal to 0.4% of the amount determined under subsection (b)(1).*

~~(b)(c)~~ For any school district whose school financing sources ex-



ceeded 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) *or* (b)(1) shall be the proceeds of the tax levied by the school district pursuant to K.S.A. 2015 Supp. 72-6470, 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)~~(d) 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. 2014 Supp. 72-6445a, prior to its repeal, the amount of general state aid for such school district determined under subsection (a)(1) *or* (b)(1) shall be determined as if such school district was not subject to K.S.A. 2014 Supp. 72-6445a, prior to its repeal, for school year 2014-2015.

~~(d)~~(e) 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) *or* (b)(1) shall be the sum of the general state aid each of the former school districts would have received under subsection (a)(1) *or* (b)(1).

~~(e)~~(f) (1) For any school district that was entitled to receive school facilities weighting for school year 2014-2015 under K.S.A. 2014 Supp. 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. 2014 Supp. 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) *or* (b)(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. 2014 Supp. 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) *or* (b)(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. 2014 Supp. 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. 2014

Supp. 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) *or* (b)(1).

~~(f)~~(g) (1) For any school district that received federal impact aid for school year 2014-2015, if such school district receives federal impact aid in school year 2015-2016 in an amount that is less than the amount such school district received in school year 2014-2015, then an amount equal to the difference between the amount of federal impact aid received by such school district in such school years shall be added to the amount of general state aid for such school district for school year 2015-2016 as determined under subsection (a)(1) *or* (b)(1).

(2) For any school district that received federal impact aid for school year 2014-2015, if such school district receives federal impact aid in school year 2016-2017 in an amount that is less than the amount such school district received in school year 2014-2015, then an amount equal to the difference between the amount of federal impact aid received by such school district in such school years shall be added to the amount of general state aid for such school district for school year 2016-2017 as determined under subsection (a)(1) *or* (b)(1).

~~(g)~~(h) 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) *or* (b) 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.

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

Sec. 8. K.S.A. 2015 Supp. 72-6474 is hereby amended to read as follows: 72-6474. (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. 72-6441, prior to its repeal, for ~~school year 2015-2016 or 2016-2017~~ *the operation of a school facility whose construction was financed by the issuance of bonds approved for issuance at an election held on or before June 30, 2016,* 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.

Sec. 9. K.S.A. 2015 Supp. 72-6476 is hereby amended to read as follows: 72-6476. (a) Each school district may submit an application to the state ~~finance council~~ *board of education* for approval of extraordinary need state aid. Such application shall be submitted in such form and manner as prescribed by the state ~~finance council~~ *board*, 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~~ *board* 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~~ *board* 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~~ *board* 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 dis-

trict's general fund budget for the current school year; and (4) in lieu of any of the foregoing considerations, whether the applicant school district has reasonably equal access to substantially similar educational opportunity through similar tax effort.

(c) If the state ~~finance council~~ board approves an application it shall ~~certify to the state board of education that such application was approved and~~ determine 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~~ board 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~~ board denies an application, then within 15 days of such denial ~~it the state board~~ shall send written notice of such denial to the superintendent of such school district. ~~The decision of the state finance council shall be final~~ All administrative proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Any action by the state board pursuant to this section shall be subject to review in accordance with the Kansas judicial review act.

(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~~ board 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 extraordinary 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 K.S.A. 2015 Supp. 72-6465(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. 75-3711(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~~ *June 30, 2017.*

Sec. 10. K.S.A. 2015 Supp. 72-6481 is hereby amended to read as follows: 72-6481. (a) The provisions of K.S.A. 2015 Supp. 72-6463 through 72-6481, *and sections 3 through 5*, and amendments thereto, shall ~~not~~ be severable. If any provision of K.S.A. 2015 Supp. 72-6463 through 72-6481, *and sections 3 through 5*, and amendments thereto, *or any application of such provision to any person or circumstance* is held to be invalid or unconstitutional by court order, ~~all provisions the invalidity shall not affect other provisions or applications of K.S.A. 2015 Supp. 72-6463 through 72-6481, and sections 3 through 5, and amendments thereto, shall be null and void which can be given effect without the invalid provision or application.~~

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

Sec. 11. K.S.A. 2015 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 section. Notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto, *for school year 2015-2016*, the department of education shall disburse to each school district that is an eligible employer as specified in K.S.A. 74-4931(1), and amendments thereto, an amount in accordance with K.S.A. 2015 Supp. 72-6465(a)(6), and amendments thereto, which shall be disbursed pursuant to K.S.A. 2015 Supp. 72-6465, and amendments thereto. *Notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto, for school year 2016-2017, the department of education shall disburse to each school district that is an eligible employer as specified in K.S.A. 74-4931(1), and amendments thereto, an amount in accordance with K.S.A. 2015 Supp. 72-6465(b)(4), and amendments thereto, which shall be disbursed pursuant to K.S.A. 2015 Supp. 72-6465, 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 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. 12. K.S.A. 2015 Supp. 72-6463, 72-6465, 72-6474, 72-6476, 72-6481 and 74-4939a are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 6, 2016.

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## CHAPTER 46

SENATE BILL No. 367

(Amends Chapter 12)

(Amended by Chapters 102 and 106)

AN ACT concerning children and minors; relating to juvenile justice; amending K.S.A. 12-4112, 20-167, 75-3722, as amended by section 111 of 2016 House Substitute for Senate Bill No. 161, and 75-6704 and K.S.A. 2015 Supp. 8-241, 8-2110, 12-4117, 38-2202, 38-2232, 38-2242, 38-2243, 38-2260, 38-2288, 38-2302, 38-2304, 38-2313, 38-2325, 38-2330, 38-2331, 38-2332, 38-2342, 38-2343, 38-2344, 38-2346, 38-2347, 38-2360, 38-2361, 38-2364, 38-2367, 38-2368, 38-2369, 38-2371, 38-2372, 38-2373, 38-2374, 38-2375, 38-2376, 38-2377, 38-2389, 65-5603, 72-1113, 72-8222, 72-89b03, 72-89c02, 74-4914, 75-7023, 75-7038, 75-7044, 75-7046 and 79-4803 and repealing the existing sections; also repealing K.S.A. 2015 Supp. 38-2334 and 38-2335.

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

New Section 1. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2015 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2015 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2015 Supp. 38-2368, and amendments thereto, the court may impose one or more of the sentencing alternatives under K.S.A. 2015 Supp. 38-2361, and amendments thereto, for a period of time pursuant to this section and K.S.A. 2015 Supp. 38-2369, and amendments thereto. The period of time ordered by the court shall not exceed the overall case length limit.

(b) Except as provided in subsection (c), the overall case length limit shall be calculated based on the adjudicated offense and the results of a risk and needs assessment, as follows:

(1) Offenders adjudicated for a misdemeanor may remain under the jurisdiction of the court for up to 12 months;

(2) low-risk and moderate-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 15 months; and

(3) high-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 18 months.

(c) There shall be no overall case length limit for a juvenile adjudicated for a felony that, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

(d) When a juvenile is adjudicated for multiple counts, the maximum overall case length shall be calculated based on the most severe adjudicated count or any other adjudicated count at the court's discretion. The court shall not run multiple adjudicated counts consecutively.

(e) When the juvenile is adjudicated for multiple cases simultaneously, the court shall run those cases concurrently.

(f) Upon expiration of the overall case length limit as defined in subsection (b), the court's jurisdiction terminates and shall not be extended.

(g) (1) For the purposes of placing juvenile offenders on probation pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, the court shall establish a specific term of probation as specified in this sub-



section based on the most serious adjudicated count in combination with the results of a risk and needs assessment, as follows, except that the term of probation shall not exceed the overall case length limit:

(A) Low-risk and moderate-risk offenders adjudicated for a misdemeanor and low-risk offenders adjudicated for a felony may be placed on probation for a term up to six months;

(B) high-risk offenders adjudicated for a misdemeanor and moderate-risk offenders adjudicated for a felony may be placed on probation for a term up to nine months;

(C) high-risk offenders adjudicated for a felony may be placed on probation for a term up to 12 months.

(2) The court may extend the term of probation if a juvenile needs time to complete an evidence-based program as determined to be necessary based on the results of a validated risk and needs assessment. The court may also extend the term of probation for good cause shown for one month for low-risk offenders, three months for moderate-risk offenders and six months for high-risk offenders. Prior to extension of the initial probationary term, the court shall find and enter into the written record the criteria permitting extension of probation. Extensions of probation shall only be granted incrementally and shall not exceed the overall case length limit. When the court extends the term of probation for a juvenile offender, the court services officer or community correctional services officer responsible for monitoring such juvenile offender shall record the reason given for extending probation. Court services officers shall report such records to the office of judicial administration, and community correctional services officers shall report such records to the department of corrections. The office of judicial administration and the department of corrections shall report such recorded data to the Kansas juvenile justice oversight committee on a quarterly basis.

(3) The probation term limits do not apply to those offenders adjudicated for an off-grid crime, rape as defined in K.S.A. 2015 Supp. 21-5503(a)(1), and amendments thereto, aggravated criminal sodomy as defined in K.S.A. 2015 Supp. 21-5504(b)(3), and amendments thereto, or murder in the second degree as defined in K.S.A. 2015 Supp. 21-5403, and amendments thereto. Such offenders may be placed on probation for a term consistent with the overall case length limit.

(h) For the purpose of placing juvenile offenders in detention pursuant to K.S.A. 2015 Supp. 38-2361 and 38-2369, and amendments thereto, the court shall establish a specific term of detention. The term of detention shall not exceed the overall case length limit or the cumulative detention limit. Cumulative detention use shall be limited to a maximum of 45 days over the course of the juvenile offender's case, except that there shall be no limit on cumulative detention for juvenile offenders adjudicated for a felony that, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

(i) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

(j) This section shall take effect on and after July 1, 2017.

New Sec. 2. (a) The department of corrections shall, in consultation with the supreme court, adopt rules and regulations by January 1, 2017, for a statewide system of structured community-based graduated responses for technical violations of probation, violations of conditional release and violations of a condition of sentence by juveniles. Such graduated responses shall be utilized by community supervision officers to provide a continuum of community-based responses. These responses shall include sanctions that are swift and certain to address violations based on the severity of the violation as well as incentives that encourage positive behaviors. Such responses shall take into account the juvenile's risks and needs.

(b) When a juvenile is placed on probation pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, community supervision officers shall utilize graduated responses, targeted to the juvenile's risks and needs based on the results of a risk and needs assessment to address technical violations. A technical violation shall only be considered by the court for revocation if: (1) It is a third or subsequent technical violation; (2) prior failed responses are documented in the juvenile's case plan; and (3) the community supervision officer has determined and documented that graduated responses to the violation will not suffice. Unless a juvenile poses a significant risk of physical harm to another or damage to property, community supervision officers shall issue a summons rather than request a warrant on a third or subsequent technical violation subject to review by the court.

(c) When a juvenile is placed on probation pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, the community supervision officer responsible for oversight of the juvenile shall develop a case plan in consultation with the juvenile and the juvenile's family. The department for children and families and local board of education may participate in the development of the case plan when appropriate.

(1) Such case plan shall incorporate the results of the risk and needs assessment, referrals to programs, documentation on violations and graduated responses and shall clearly define the role of each person or agency working with the juvenile.

(2) If the juvenile is later committed to the custody of the secretary, the case plan shall be shared with the juvenile correctional facility.

(d) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

New Sec. 3. (a) (1) The court shall appoint a multidisciplinary team to review cases in which a juvenile fails to substantially comply with the development of the immediate intervention plan pursuant to K.S.A. 2015

Supp. 38-2346(b), and amendments thereto. The team may be a standing multidisciplinary team or may be appointed for a specific juvenile. (2) The supreme court shall appoint a multidisciplinary team facilitator in each judicial district. The supreme court may appoint a convener and facilitator for a multiple district multidisciplinary team.

(b) The multidisciplinary team facilitator shall invite the following individuals to be part of the multidisciplinary team:

- (1) The juvenile;
- (2) the juvenile's parents, guardians or custodial relative;
- (3) the superintendent of schools or the superintendent's designee;
- (4) a clinician who has training and experience coordinating behavioral or mental health treatment for juveniles if such clinician is available; and

(5) any other person or agency representative who is needed to assist in providing recommendations for the particular needs of the juvenile and family.

(c) Any person appointed as a member of a multidisciplinary team may decline to serve and shall incur no civil liability as a result of declining to serve.

(d) This section shall take effect on and after January 1, 2017.

New Sec. 4. (a) There is hereby established the Kansas juvenile justice oversight committee for the purpose of overseeing the implementation of reform measures intended to improve the state's juvenile justice system.

(b) The Kansas juvenile justice oversight committee shall be composed of 19 members including the following individuals:

- (1) The governor or the governor's designee;
- (2) one member of the house of representatives appointed by the speaker of the house of representatives;
- (3) one member of the house of representatives appointed by the minority leader of the house of representatives;
- (4) one member of the senate appointed by the president of the senate;
- (5) one member of the senate appointed by the minority leader of the senate;
- (6) the secretary of corrections or the secretary's designee;
- (7) the secretary for children and families or the secretary's designee;
- (8) the commissioner of education or the commissioner's designee;
- (9) the deputy secretary of juvenile services at the department of corrections or the deputy's designee;
- (10) the director of community-based services at the department of corrections, or the director's designee;
- (11) two district court judges appointed by the chief justice of the supreme court;

(12) one chief court services officer appointed by the chief justice of the supreme court;

(13) one member of the office of judicial administration appointed by the chief justice of the supreme court;

(14) one juvenile defense attorney appointed by the chief justice of the supreme court;

(15) one juvenile crime victim advocate appointed by the governor;

(16) one member from a local law enforcement agency appointed by the attorney general;

(17) one attorney from a prosecuting attorney's office appointed by the attorney general; and

(18) one member from a community corrections agency appointed by the governor.

(c) The committee shall be appointed by September 1, 2016, and shall meet within 60 days after appointment and at least quarterly thereafter, upon notice by the chair. The committee shall select a chairperson and vice-chairperson, and 10 members shall be considered a quorum.

(d) The committee shall perform the following duties:

(1) Guide and evaluate the implementation of the changes in law relating to juvenile justice reform;

(2) define performance measures and recidivism;

(3) approve a plan developed by court services and the department of corrections instituting a uniform process for collecting and reviewing performance measures and recidivism, costs and outcomes of programs;

(4) consider utilizing the Kansas criminal justice information system for data collection and analyses;

(5) ensure system integration and accountability;

(6) monitor the fidelity of implementation efforts to programs and training efforts;

(7) calculate any state expenditures that have been avoided by reductions in the number of youth placed in out-of-home placements to recommend to the governor and the legislature reinvestment of funds into:

(A) Evidence-based practices and programs in the community pursuant to K.S.A. 2015 Supp. 38-2302, and amendments thereto, for use by intake and assessment services, immediate intervention, probation and conditional release;

(B) training on evidence-based practices for juvenile justice system staff, including, but not limited to, training in cognitive behavioral therapies, family-centered therapies, substance abuse, sex offender therapy and other services that address a juvenile's risks and needs; and

(C) monitor the plan from the department of corrections for the prioritization of funds pursuant to section 13(d), and amendments thereto;

(8) continue to review any additional topics relating to the continued improvement of the juvenile justice system, including:

- (A) The confidentiality of juvenile records;
- (B) the reduction of the financial burden placed on families involved in the juvenile justice system;
- (C) juvenile due process rights, including, but not limited to, the development of rights to a speedy trial and preliminary hearings;
- (D) the improvement of conditions of confinement for juveniles;
- (E) the removal from the home of children in need of care for non-abuse or neglect, truancy, running away or additional child behavior problems when there is no court finding of parental abuse or neglect; and
- (F) the requirement for youth residential facilities to maintain sight and sound separation between children in need of care that have an open juvenile offender case and children in need of care that do not have an open juvenile offender case;

(9) adhere to the goals of the juvenile justice code as provided in K.S.A. 2015 Supp. 38-2301, and amendments thereto;

(10) analyze and investigate gaps in the juvenile justice system and explore alternatives to out-of-home placement of juvenile offenders in youth residential facilities; and

(11) identify evidence-based training models, needs and resources and make appropriate recommendations.

(e) The committee shall issue an annual report to the governor, the president of the senate, the speaker of the house of representatives and the chief justice of the supreme court on or before November 30<sup>th</sup> each year starting in 2017. Such report shall include:

(1) An assessment of the progress made in implementation of juvenile justice reform efforts;

(2) a summary of the committee's efforts in fulfilling its duties as set forth in this section;

(3) an analysis of the recidivism data obtained by the committee pursuant to this section;

(4) a summary of the averted costs calculated by the committee pursuant to this section and a recommendation for any reinvestment of the averted costs to fund services or programs to expand Kansas' continuum of alternatives for juveniles who would otherwise be placed in out-of-home placements;

(5) an analysis of detention risk-assessment data to determine if any disparate impacts resulted at any stage of the juvenile justice system based on race, sex, national origin or economic status;

(6) recommendations for continued improvements to the juvenile justice system;

(7) data pertaining to the completion of training on evidence-based practices in juvenile justice, including, but not limited to, the number of

judges, district and county attorneys and appointed defense attorneys, that participated in training; and

(8) data received from the office of judicial administration and the department of corrections, pursuant to section 1, and amendments thereto, pertaining to extensions of probation for juvenile offenders and an analysis of such data to identify how probation extensions are being used and conclusions regarding the effectiveness of such extensions.

(f) After initial appointment, members appointed to this committee by the governor, the president of the senate, the speaker of the house of representatives or the chief justice of the supreme court pursuant to subsection (b), shall serve for a term of two years and shall be eligible for reappointment to such position. All members appointed to the committee shall serve until a successor has been duly appointed.

(g) The staff of the Kansas department of corrections shall provide such assistance as may be requested by the committee. To facilitate the organization of the meetings of the committee, the Kansas department of corrections shall provide administrative assistance.

New Sec. 5. (a) Training on evidence-based programs and practices shall be mandatory for all individuals who work with juveniles adjudicated or participating in an immediate intervention under the Kansas revised juvenile justice code. Such individuals shall include, but not be limited to:

- (1) Community supervision officers;
- (2) juvenile intake and assessment workers;
- (3) juvenile corrections officers; and
- (4) any individual who works with juveniles through a contracted organization providing services to juveniles.

(b) The department of corrections, in conjunction with the office of judicial administration shall provide training in evidence-based programs and practices on not less than a semi-annual basis to those required to receive such training pursuant to subsection (a).

New Sec. 6. (a) The department of corrections, in collaboration with the office of judicial administration, shall develop standards and procedures to guide the administration of an immediate intervention process and programs developed pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto, and alternative means of adjudication pursuant to K.S.A. 2015 Supp. 38-2389, and amendments thereto. Such standards and procedures shall include, but not be limited to:

- (1) Contact requirements;
- (2) parent engagement;
- (3) graduated response and discharge requirements; and
- (4) process and quality assurance.

(b) This section shall take effect on and after January 1, 2017.

New Sec. 7. (a) When a juvenile is placed outside the juvenile's home

at a dispositional hearing pursuant to K.S.A. 2015 Supp. 38-2361(k), and amendments thereto, and no reintegration plan is made a part of the record of the hearing, a written reintegration plan shall be prepared and submitted to the court within 15 days of the initial order of the court.

(b) The plan shall be prepared by the person who has custody or, if directed by the court, by a community supervision officer.

(c) If there is a lack of agreement among persons necessary for the success of the plan, the person or entity having custody of the child shall notify the court, and the court shall set a hearing pursuant to K.S.A. 2015 Supp. 38-2367, and amendments thereto.

(d) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

(e) This section shall take effect on and after July 1, 2017.

New Sec. 8. For purposes of determining a release date of a juvenile offender from custody of the secretary of corrections, the secretary shall promulgate rules and regulations by January 1, 2017, regarding earned time calculations.

New Sec. 9. For purposes of determining release of a juvenile from probation, the supreme court, in consultation with the department of corrections, shall establish rules for a system of earned discharge for juvenile probationers to be applied by all community supervision officers. A probationer shall be awarded earned discharge credits while on probation for each full calendar month of compliance with terms of supervised probation pursuant to the rules developed by the supreme court.

New Sec. 10. (a) The office of judicial administration shall designate or develop a training protocol for judges, county and district attorneys and defense attorneys who work in juvenile court.

(b) The office of judicial administration shall report annually to the legislature and to the juvenile justice oversight committee established pursuant to section 4, and amendments thereto, data pertaining to the completion of the training protocol, including, but not limited to, the number of judges, district and county attorneys and defense attorneys who did and did not complete the training protocol.

New Sec. 11. (a) The department of corrections shall create a plan and provide funding to incentivize the development of immediate intervention programs established pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto.

(b) Funds allocated in accordance with such plan shall be used only for the purpose of making grants to immediate intervention programs that adhere to the standards and procedures for such programs developed pursuant to section 6, and amendments thereto, and shall be based on the number of persons served and such other requirements as may be established by the department of corrections. The plan may include requirements for grant applications, organizational characteristics, re-

porting and auditing criteria and such other standards for eligibility and accountability.

(c) This section shall take effect on and after January 1, 2017.

New Sec. 12. The department of corrections shall develop for use by the courts pursuant to K.S.A. 2015 Supp. 38-2367(d), and amendments thereto, community integration programs for juveniles who are ready to transition to independent living. Community integration programs shall be designed to prepare juveniles to become socially and financially independent from the program.

New Sec. 13. (a) There is hereby established in the state treasury the Kansas juvenile justice improvement fund, which shall be administered by the department of corrections. All expenditures from the Kansas juvenile justice improvement fund shall be for the development and implementation of evidence-based community programs and practices for juvenile offenders and their families by community supervision offices, including, but not limited to, juvenile intake and assessment, court services and community corrections. All expenditures from the Kansas juvenile justice improvement 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 corrections or the secretary's designee.

(b) Annually, on or before June 30, the secretary of corrections shall determine and certify to the director of accounts and reports the amount in each account of the state general fund of a state agency that has been determined by the secretary to be actual or projected cost savings as a result of cost avoidance resulting from decreased reliance on incarceration in the juvenile correctional facility and placement in youth residential centers. The baseline shall be calculated on the cost of incarceration and placement in fiscal year 2015.

(c) Annually, on July 1 or as soon thereafter as moneys are available, the director of accounts and reports shall transfer the amount certified pursuant to subsection (b) from each account of the state general fund of a state agency that has been determined by the secretary of corrections to be actual or projected cost savings to the Kansas juvenile justice improvement fund.

(d) Prioritization of Kansas juvenile justice improvement fund moneys will be given to regions that demonstrate a high rate of out-of-home placement of juvenile offenders per capita that have few existing community-based alternatives.

(e) During fiscal years 2017 and 2018, the secretary of corrections shall transfer an amount not to exceed \$8,000,000 from appropriated department of corrections moneys from the state general fund or any available special revenue fund or funds that are budgeted for the purposes



of facilitating the development and implementation of new community placements in conjunction with the reduction in out-of-home placements.

(f) The Kansas juvenile justice improvement fund and any other moneys transferred pursuant to this section shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the funds and the moneys deposited in this fund shall remain intact and inviolate for the purposes set forth in this section.

New Sec. 14. (a) The attorney general shall, in collaboration with the Kansas law enforcement training center and the state board of education, promulgate rules and regulations by January 1, 2017, creating a skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system.

(b) The skill development training shall include, but not be limited to, the following:

- (1) Information on adolescent development;
- (2) risk and needs assessments;
- (3) mental health;
- (4) diversity;
- (5) youth crisis intervention;
- (6) substance abuse prevention;
- (7) trauma-informed responses; and
- (8) other evidence-based practices in school policing to mitigate student juvenile justice exposure.

(c) The superintendent of each school district or the superintendent's designee and any law enforcement officer primarily assigned to a school shall complete the skill development training.

New Sec. 15. The department of corrections and the Kansas juvenile justice oversight committee shall explore methods of exchanging confidential data between all parts of the juvenile justice system. Such data exchange shall be limited based on the needs of the user accessing the data. Such method of exchanging data shall take into consideration sharing data that is necessary for continuity of treatment and correctional programs, including, but not limited to, health care requirements, mental health care needs and history, substance abuse treatment and history, recommendations for emergency placement options and any other information to assist in providing proper care to the juvenile. The department of corrections is authorized to use grant funds, allocated state funds or any other accessible funding necessary to create such data exchange system. All state and local programs involved in the care of juveniles involved in the juvenile justice system or the child in need of care system shall cooperate in the development and utilization of such system.

New Sec. 16. (a) The juvenile corrections advisory boards established

pursuant to K.S.A. 75-7044, and amendments thereto, shall annually consider the availability of:

- (1) Treatment programs;
- (2) programs creating alternatives to incarceration for juvenile offenders;
- (3) mental health treatment; and
- (4) the development of risk assessment tools, if they do not currently exist, for use in determining pretrial release and probation supervision levels.

(b) The juvenile corrections advisory boards shall report to the Kansas department of corrections and the Kansas juvenile justice oversight committee by October 1 of each year detailing the costs of programs needed in the judicial district the juvenile corrections advisory board represents to reduce the out-of-home placement of juvenile offenders and improve the rate of recidivism of juvenile offenders in such judicial district.

New Sec. 17. (a) The secretary of corrections may contract for use of not more than 50 non-foster home beds in youth residential facilities for placement of juvenile offenders pursuant to K.S.A. 2015 Supp. 38-2361(a)(13), and amendments thereto.

(b) When contracting for services, the secretary shall:

- (1) Contract with facilities that have high success rates and decrease recidivism rates for juvenile offenders;
- (2) consider contracting for bed space across the entire state to lower the cost of transportation of juvenile offenders; and
- (3) give priority to existing facilities that are able to meet the requirements of the secretary for providing residential services to juvenile offenders.

(d) This section shall take effect on and after January 1, 2018.

Sec. 18. K.S.A. 2015 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. 2015 Supp. 8-1025, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 2015 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 *alternatives to 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 *alternatives to detention facilities* fund created by K.S.A. 79-4803, and amend-

ments 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 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. 19. K.S.A. 2015 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 *alternatives to 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. 2015 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, 2015, through 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. 20. K.S.A. 12-4112 is hereby amended to read as follows: 12-4112. No person shall be assessed costs for the administration of justice in any municipal court case, except for witness fees and mileage as set forth in K.S.A. 12-4411, and amendments thereto; for the assessment required by K.S.A. ~~2001~~ 2015 Supp. 20-1a11, and amendments thereto; for the judicial branch education fund; for the assessment required by K.S.A. 12-4117, and amendments thereto, for the law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto, the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, and the juvenile *alternatives to detention-facilities* fund as provided in K.S.A. 12-4117, and amendments thereto; and for the assessment required by K.S.A. 12-16,119, and amendments thereto, for the detention facility processing fee.

Sec. 21. K.S.A. 2015 Supp. 12-4117 is hereby amended to read as follows: 12-4117. (a) In each case filed in municipal court other than a

nonmoving traffic violation, where there is a finding of guilty or a plea of guilty, a plea of no contest, forfeiture of bond or a diversion, a sum in an amount of \$20 shall be assessed and such assessment shall be credited as follows:

One dollar to the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, \$11.50 to the law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto, \$2.50 to the Kansas commission on peace officers' standards and training fund established by K.S.A. 74-5619, and amendments thereto, \$2 to the juvenile *alternatives to detention-facilities* fund established pursuant to K.S.A. 79-4803, and amendments thereto, to be expended for operational costs of facilities for the detention of juveniles, \$.50 to the protection from abuse fund established pursuant to K.S.A. 74-7325, and amendments thereto, \$.50 to the crime victims assistance fund established pursuant to K.S.A. 74-7334, and amendments thereto, \$1 to the trauma fund established pursuant to K.S.A. 2015 Supp. 75-5670, and amendments thereto, and \$1 to the department of corrections forensic psychologist fund established pursuant to K.S.A. 2015 Supp. 75-52,151, and amendments thereto.

(b) The judge or clerk of the municipal court shall remit the appropriate assessments received pursuant to 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 local law enforcement training reimbursement fund, the law enforcement training center fund, the Kansas commission on peace officers' standards and training fund, the juvenile *alternatives to detention-facilities* fund, the crime victims assistance fund, the trauma fund and the department of corrections forensic psychologist fund as provided in this section.

(c) For the purpose of determining the amount to be assessed according to this section, if more than one complaint is filed in the municipal court against one individual arising out of the same incident, all such complaints shall be considered as one case.

Sec. 22. K.S.A. 20-167 is hereby amended to read as follows: 20-167. ~~On and after July 1, 1997:~~(a) The supreme court may establish a supervision fee schedule to be charged to a juvenile offender, or the parent or guardian of such juvenile offender, if the juvenile offender is under the age of 18, for services rendered to the juvenile who is:

- (1) Placed on probation;
- (2) placed in juvenile community correctional services;
- (3) placed in a community placement;
- (4) placed on conditional release pursuant to K.S.A. ~~2007~~ 2015 Supp. 38-2374, and amendments thereto; or



(5) using any other juvenile justice program available in the judicial district.

(b) The supervision fee established by this section shall be charged and collected by the clerk of the district court.

(c) All moneys collected by this section shall be paid into the county general fund and used to fund community juvenile justice programs.

~~(d) The juvenile offender shall not be eligible for early release from supervision unless the supervision fee has been paid.~~

~~(e)~~ An annual report shall be filed with the ~~commissioner of juvenile justice~~ *secretary of corrections* from every judicial district concerning the supervision fees. The report shall include figures concerning: (1) The amount of supervision fees ordered to be paid; (2) the amount of supervision fees actually paid; and (3) the amount of expenditures and to whom such expenditures were paid.

~~(f)~~~~(e)~~ The court may waive all or part of the supervision fee established by this section upon a showing that such fee will result in an undue hardship to such juvenile offender or the parent or guardian of such juvenile offender.

Sec. 23. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

(a) “Abandon” or “abandonment” means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.

(b) “Adult correction facility” means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(c) “Aggravated circumstances” means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(d) “Child in need of care” means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 2015 Supp. 38-2242, and amendments thereto, who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child’s parents or other custodian;

(2) is without the care or control necessary for the child’s physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727, K.S.A. 74-8810(j), K.S.A. 79-3321(m) or (n), or K.S.A. 2015 Supp. 21-6301(a)(14), and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2015 Supp. 21-5102, and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in K.S.A. 2015 Supp. 21-6301(a)(14), and amendments thereto; or

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve.

(e) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 2015 Supp. 38-2207 and 38-2208, and amendments thereto.

(f) "Civil custody case" includes any case filed under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, article 11 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto, determination of parentage, article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators.

(g) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2015 Supp. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(h) "Custody" whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(i) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most

recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home.

(j) “Educational institution” means all schools at the elementary and secondary levels.

(k) “Educator” means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in K.S.A. 72-89b03(a), and amendments thereto.

(l) “Harm” means physical or psychological injury or damage.

(m) “Interested party” means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 2015 Supp. 38-2241, and amendments thereto, or Indian tribe seeking to intervene that is not a party.

(n) “Jail” means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(o) “Juvenile detention facility” means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

(p) “Juvenile intake and assessment worker” means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(q) “Kinship care” means the placement of a child in the home of the child’s relative or in the home of another adult with whom the child or the child’s parent already has a close emotional attachment.

(r) “Law enforcement officer” means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(s) “Multidisciplinary team” means a group of persons, appointed by the court under K.S.A. 2015 Supp. 38-2228, and amendments thereto, which has knowledge of the circumstances of a child in need of care.

(t) “Neglect” means acts or omissions by a parent, guardian or person

responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation which requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to K.S.A. 2015 Supp. 38-2217(a)(2), and amendments thereto.

(u) "Parent" when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

(v) "Party" means the state, the petitioner, the child, any parent of the child and an Indian child's tribe intervening pursuant to the Indian child welfare act.

(w) "Permanency goal" means the outcome of the permanency planning process which may be reintegration, adoption, appointment of a permanent custodian or another planned permanent living arrangement.

(x) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 2015 Supp. 38-2272, and amendments thereto.

(y) "Physical, mental or emotional abuse" means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

(z) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(aa) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(bb) "Secretary" means the secretary of the department for children and families or the secretary's designee.

(cc) "Secure facility" means a facility, other than a staff secure facility or *juvenile detention facility* which is operated or structured so as to

ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(dd) “Sexual abuse” means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include allowing, permitting or encouraging a child to engage in the sale of sexual relations or commercial sexual exploitation of a child, or to be photographed, filmed or depicted in pornographic material. Sexual abuse also shall include allowing, permitting or encouraging a child to engage in aggravated human trafficking, as defined in K.S.A. 2015 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the offender or another.

(ee) “Shelter facility” means any public or private facility or home, other than a juvenile detention facility or staff secure facility, that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(ff) “Staff secure facility” means a facility described in K.S.A. 2015 Supp. 65-535, and amendments thereto: (1) That does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein; (2) that may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. No staff secure facility shall be in a city or county jail.

(gg) “Transition plan” means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

(hh) “Youth residential facility” means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 24. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2232 is hereby amended to read as follows: 38-2232. (a) (1) To the extent possible, when any law enforcement officer takes into custody a child under

the age of 18 years without a court order, the child shall ~~forthwith~~ promptly be delivered to the custody of the child's parent or other custodian unless there are reasonable grounds to believe that such action would not be in the best interests of the child.

(2) Except as provided in subsection (b), if the child is not delivered to the custody of the child's parent or other custodian, the child shall ~~forthwith~~ promptly be delivered to a shelter facility designated by the court, court services officer, juvenile intake and assessment worker, licensed attendant care center or other person or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to a facility or person designated by the secretary.

(3) If, after delivery of the child to a shelter facility, the person in charge of the shelter facility at that time and the law enforcement officer determine that the child will not remain in the shelter facility and if the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to ~~subsection (d)(9) or (d)(10) of K.S.A. 2015 Supp. 38-2202(d)(9) or (d)(10)~~, and amendments thereto, the law enforcement officer shall deliver the child to a ~~juvenile detention facility or other~~ secure facility, designated by the court, where the child shall be detained for not more than 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible.

(4) No child taken into custody pursuant to this code shall be placed in a ~~juvenile detention facility or other~~ secure facility, except as authorized by this section and by K.S.A. 2015 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.

(5) It shall be the duty of the law enforcement officer to furnish to the county or district attorney, without unnecessary delay, all the information in the possession of the officer pertaining to the child, the child's parents or other persons interested in or likely to be interested in the child and all other facts and circumstances which caused the child to be taken into custody.

(b)(1) When any law enforcement officer takes into custody any child as provided in ~~subsection (b)(2) of K.S.A. 2015 Supp. 38-2231(b)(2)~~, and amendments thereto, proceedings shall be initiated in accordance with the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et seq., and amendments thereto, or K.S.A. 2015 Supp. 38-1008, and amendments thereto, when effective. Any child taken into custody pursuant to the interstate compact on juveniles may be detained in a juvenile detention facility or other secure facility.

(2) When any law enforcement officer takes into custody any child as provided in ~~subsection (b)(3) of K.S.A. 2015 Supp. 38-2231(b)(3)~~, and amendments thereto, the law enforcement officer shall place the child in protective custody and may deliver the child to a staff secure facility. The law enforcement officer shall contact the department for children and

families to begin an assessment to determine safety, placement and treatment needs for the child. Such child shall not be placed in a ~~juvenile detention facility or other~~ secure facility, except as authorized by this section and by K.S.A. 2015 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.

(c) Whenever a child under the age of 18 years is taken into custody by a law enforcement officer without a court order and is thereafter placed as authorized by subsection (a), the facility or person shall, upon written application of the law enforcement officer, have physical custody and provide care and supervision for the child. The application shall state:

- (1) The name and address of the child, if known;
- (2) the names and addresses of the child's parents or nearest relatives and persons with whom the child has been residing, if known; and
- (3) the officer's belief that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that the child would be harmed unless placed in the immediate custody of the shelter facility or other person.

(d) A copy of the application shall be furnished by the facility or person receiving the child to the county or district attorney without unnecessary delay.

(e) The shelter facility or other person designated by the court who has custody of the child pursuant to this section shall discharge the child not later than 72 hours following admission, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, unless a court has entered an order pertaining to temporary custody or release.

(f) In absence of a court order to the contrary, the county or district attorney or the placing law enforcement agency shall have the authority to direct the release of the child at any time.

(g) When any law enforcement officer takes into custody any child as provided in ~~subsection (d) of~~ K.S.A. 2015 Supp. 38-2231(d), and amendments thereto, the child shall ~~forthwith~~ promptly be delivered to the school in which the child is enrolled, any location designated by the school in which the child is enrolled or the child's parent or other custodian.

Sec. 25. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2242 is hereby amended to read as follows: 38-2242. (a) The court, upon verified application, may issue ex parte an order directing that a child be held in protective custody and, if the child has not been taken into custody, an order directing that the child be taken into custody. The application shall state for each child:

- (1) The applicant's belief that the child is a child in need of care;
- (2) that the child is likely to sustain harm if not immediately removed from the home;

(3) that allowing the child to remain in the home is contrary to the welfare of the child; and

(4) the facts relied upon to support the application, including efforts known to the applicant to maintain the family unit and prevent the unnecessary removal of the child from the child's home, or the specific facts supporting that an emergency exists which threatens the safety of the child.

(b) (1) The order of protective custody may be issued only after the court has determined there is probable cause to believe the allegations in the application are true. The order shall remain in effect until the temporary custody hearing provided for in K.S.A. 2015 Supp. 38-2243, and amendments thereto, unless earlier rescinded by the court.

(2) No child shall be held in protective custody 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, unless within the 72-hour period a determination is made as to the necessity for temporary custody in a temporary custody hearing. The time spent in custody pursuant to K.S.A. 2015 Supp. 38-2232, and amendments thereto, shall be included in calculating the 72-hour period. Nothing in this subsection shall be construed to mean that the child must remain in protective custody for 72 hours. If a child is in the protective custody of the secretary, the secretary shall allow at least one supervised visit between the child and the parent or parents within such time period as the child is in protective custody. The court may prohibit such supervised visit if the court determines it is not in the best interest of the child.

(c) (1) Whenever the court determines the necessity for an order of protective custody, the court may place the child in the protective custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (e);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility;

(E) a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto; or

(F) the secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.



(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the protective custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the protective custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is placed in the temporary custody of the secretary and the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto, the secretary shall have the discretionary authority to place the child in a staff secure facility, notwithstanding any other provision of law. When the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to ~~subsection (d)(9) or (d)(10) of~~ K.S.A. 2015 Supp. 38-2202 ~~(d)(9) or (d)(10)~~, and amendments thereto, the child may be placed in a ~~juvenile detention facility or other~~ secure facility pursuant to an order of protective custody for a period of not to exceed 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible.

(d) The order of protective custody shall be served pursuant to ~~subsection (a) of~~ K.S.A. 2015 Supp. 38-2237 ~~(a)~~, and amendments thereto, on the child's parents and any other person having legal custody of the child. The order shall prohibit the removal of the child from the court's jurisdiction without the court's permission.

(e) If the court issues an order of protective custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to ~~subsection (a) of~~ K.S.A. 2015 Supp. 38-2237 ~~(a)~~, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(f) (1) The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (A) (i) The child is likely to sustain harm if not immediately removed from the home;

(ii) allowing the child to remain in home is contrary to the welfare of the child; or

(iii) immediate placement of the child is in the best interest of the child; and

(B) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, the court shall provide the secretary with a written copy of any orders entered upon making the order.

Sec. 26. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2243 is hereby amended to read as follows: 38-2243. (a) Upon notice and hearing, the court may issue an order directing who shall have temporary custody and may modify the order during the pendency of the proceedings as will best serve the child's welfare.

(b) A hearing pursuant to this section shall be held within 72 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, following a child having been taken into protective custody.

(c) Whenever it is determined that a temporary custody hearing is required, the court shall immediately set the time and place for the hearing. Notice of a temporary custody hearing shall be given to all parties and interested parties.

(d) Notice of the temporary custody hearing shall be given at least 24 hours prior to the hearing. The court may continue the hearing to afford the 24 hours prior notice or, with the consent of the party or interested party, proceed with the hearing at the designated time. If an order of temporary custody is entered and the parent or other person having custody of the child has not been notified of the hearing, did not appear or waive appearance and requests a rehearing, the court shall rehear the matter without unnecessary delay.

(e) Oral notice may be used for giving notice of a temporary custody hearing where there is insufficient time to give written notice. Oral notice is completed upon filing a certificate of oral notice.

(f) The court may enter an order of temporary custody after determining there is probable cause to believe that the: (1) Child is dangerous to self or to others; (2) child is not likely to be available within the jurisdiction of the court for future proceedings; (3) health or welfare of the child may be endangered without further care; (4) child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto; or (5) child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto.

(g) (1) Whenever the court determines the necessity for an order of temporary custody the court may place the child in the temporary custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (h);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility;

(E) a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto; or

(F) the secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the temporary custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the temporary custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is placed in the temporary custody of the secretary and the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto, the secretary shall have the discretionary authority to place the child in a staff secure facility, notwithstanding any other provision of law. When the child is presently alleged, but not yet adjudicated to be a child in need of care solely pursuant to ~~subsection (d)(9) or (d)(10) of K.S.A. 2015 Supp. 38-2202(d)(9) or (d)(10), and amendments thereto, the child may be placed in a juvenile detention facility or other~~ secure facility, but the total amount of time that the child may be held in such facility under this section and K.S.A. 2015 Supp. 38-2242, and amendments thereto, shall not exceed 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the

court is not accessible. The order of temporary custody shall remain in effect until modified or rescinded by the court or an adjudication order is entered but not exceeding 60 days, unless good cause is shown and stated on the record.

(h) If the court issues an order of temporary custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child; or attempting to visit, contact, harass or intimidate the child, other family members or witnesses. Such restraining order shall be served by personal service pursuant to ~~subsection (a) of~~ K.S.A. 2015 Supp. 38-2237(a), and amendments thereto, on any alleged perpetrator to whom the order is directed.

(i) (1) The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (A) (i) The child is likely to sustain harm if not immediately removed from the home;

(ii) allowing the child to remain in home is contrary to the welfare of the child; or

(iii) immediate placement of the child is in the best interest of the child; and

(B) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, upon making the order the court shall provide the secretary with a written copy.

(j) If the court enters an order of temporary custody that provides for placement of the child with a person other than the parent, the court shall make a child support determination pursuant to K.S.A. 2015 Supp. 38-2277, and amendments thereto.

Sec. 27. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2260 is hereby amended to read as follows: 38-2260. (a) *Valid court order*. During proceedings under this code, the court may enter an order directing a child who is the subject of the proceedings to remain in a present or future placement if:

(1) The child and the child's guardian ad litem are present in court when the order is entered;

(2) the court finds that the child has been adjudicated a child in need of care pursuant to ~~subsections (d)(6), (d)(7), (d)(8), (d)(9), (d)(10) or (d)(12) of~~ K.S.A. 2015 Supp. 38-2202(d)(6), (d)(7), (d)(8), (d)(9), (d)(10) or (d)(12), and amendments thereto, and that the child is not likely to be available within the jurisdiction of the court for future proceedings;

(3) the child and the guardian ad litem receive oral and written notice of the consequences of violation of the order; and

(4) a copy of the written notice is filed in the official case file.

(b) *Application.* Any person may file a verified application for determination that a child has violated an order entered pursuant to subsection (a) and for an order authorizing holding the child in a secure facility ~~or juvenile detention facility~~. The application shall state the applicant's belief that the child has violated the order entered pursuant to subsection (a) without good cause and the specific facts supporting the allegation.

(c) *Ex parte order.* After reviewing the application filed pursuant to subsection (b), the court may enter an ex parte order directing that the child be taken into custody and held in a secure facility ~~or juvenile detention facility~~ designated by the court, if the court finds probable cause that the child violated the court's order to remain in placement without good cause. Pursuant to K.S.A. 2015 Supp. 38-2237, and amendments thereto, the order shall be served on the child's parents, the child's legal custodian and the child's guardian ad litem.

(d) *Preliminary hearing.* Within 24 hours following a child's being taken into custody pursuant to an order issued under subsection (c), the court shall hold a preliminary hearing to determine whether the child admits or denies the allegations of the application and, if the child denies the allegations, to determine whether probable cause exists to support the allegations.

(1) Notice of the time and place of the preliminary hearing shall be given orally or in writing to the child's parents, the child's legal custodian and the child's guardian ad litem.

(2) At the hearing, the child shall have the right to a guardian ad litem and shall be served with a copy of the application.

(3) If the child admits the allegations or enters a no contest statement and if the court finds that the admission or no contest statement is knowledgeable and voluntary, the court shall proceed without delay to the placement hearing pursuant to subsection (f).

(4) If the child denies the allegations, the court shall determine whether probable cause exists to hold the child in a secure facility ~~or juvenile detention facility~~ pending an evidentiary hearing pursuant to subsection (e). After hearing the evidence, if the court finds that: (A) There is probable cause to believe that the child has violated an order entered pursuant to subsection (a) without good cause; and (B) placement in a secure facility ~~or juvenile detention facility~~ is necessary for the protection of the child or to assure the presence of the child at the evidentiary hearing pursuant to subsection (e), the court may order the child held in a secure facility ~~or juvenile detention facility~~ pending the evidentiary hearing.

(e) *Evidentiary hearing.* The court shall hold an evidentiary hearing on an application within 72 hours of the child's being taken into custody. Notice of the time and place of the hearing shall be given orally or in writing to the child's parents, the child's legal custodian and the child's

guardian ad litem. At the evidentiary hearing, the court shall determine by a clear and convincing evidence whether the child has:

(1) Violated a court order entered pursuant to subsection (a) without good cause;

(2) been provided at the hearing with the rights enumerated in subsection (d)(2); and

(3) been informed of:

(A) The nature and consequences of the proceeding;

(B) the right to confront and cross-examine witnesses and present evidence;

(C) the right to have a transcript or recording of the proceedings; and

(D) the right to appeal.

(f) *Placement.* (1) If the child admits violating the order entered pursuant to subsection (a) or if, after an evidentiary hearing, the court finds that the child has violated such an order, the court shall immediately proceed to a placement hearing. The court may enter an order awarding custody of the child to:

(A) A parent or other legal custodian;

(B) a person other than a parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility; or

(D) the secretary, if the secretary does not already have legal custody of the child.

(2) The court may authorize the custodian to place the child in a secure facility ~~or juvenile detention facility~~, if the court determines that all other placement options have been exhausted or are inappropriate, based upon a written report submitted by the secretary, if the child is in the secretary's custody, or submitted by a public agency independent of the court and law enforcement, if the child is in the custody of someone other than the secretary. The report shall detail the behavior of the child and the circumstances under which the child was brought before the court and made subject to the order entered pursuant to subsection (a).

(3) The authorization to place the child in a secure facility ~~or juvenile detention facility~~ pursuant to this subsection shall expire 60 days, inclusive of weekend and legal holidays, after its issue. The court may grant extensions of such authorization for two additional periods, each not to exceed 60 days, upon rehearing pursuant to K.S.A. 2015 Supp. 38-2256, and amendments thereto.

(g) *Payment.* The secretary shall only pay for placement and services for a child placed in a secure facility ~~or juvenile detention facility~~ pursuant to subsection (f) upon receipt of a valid court order authorizing secure care placement.

(h) *Limitations on facilities used.* Nothing in this section shall authorize placement of a child in an adult jail or lockup.

(i) *Time limits, computation.* Except as otherwise specifically provided by subsection (f), Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible shall not be counted in computing any time limit imposed by this section.

Sec. 28. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2288 is hereby amended to read as follows: 38-2288. (a) Notwithstanding any other provision of law, no child alleged or found to be a child in need of care may be placed in a juvenile detention facility unless:

~~(1) Such placement is necessary to protect the safety of the child and is authorized by subsection (b) of K.S.A. 2015 Supp. 38-2232, and amendments thereto, or K.S.A. 2015 Supp. 38-2242, 38-2243 or 38-2260, and amendments thereto; or~~

~~(2) the child is also alleged to be a juvenile offender and such placement is authorized by K.S.A. 2015 Supp. 38-2330 or 38-2343, and amendments thereto.~~

(b) This section shall be part of and supplemental to the revised Kansas code for care of children.

Sec. 29. K.S.A. 2015 Supp. 38-2302 is hereby amended to read as follows: 38-2302. As used in this code, unless the context otherwise requires:

(a) “Commissioner” means ~~the commissioner of juvenile justice or the commissioner’s designee~~ *secretary of corrections.*

(b) “*Community supervision officer*” means *any officer from court services, community corrections or any other individual authorized to supervise a juvenile on an immediate intervention, probation or conditional release.*

(c) “Conditional release” means release from a term of commitment in a juvenile correctional facility for an aftercare term pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, under conditions established by the ~~commissioner~~ *secretary of corrections.*

~~(c)~~(d) “Court-appointed special advocate” means a responsible adult, other than an attorney appointed pursuant to K.S.A. 2015 Supp. 38-2306, and amendments thereto, who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2015 Supp. 38-2307, and amendments thereto, in a proceeding pursuant to this code.

~~(d)~~(e) “*Detention risk assessment tool*” means *a risk assessment instrument adopted pursuant to K.S.A. 75-7023(f), and amendments thereto, used to identify factors shown to be statistically related to a juvenile’s risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.*

(f) “Educational institution” means all schools at the elementary and secondary levels.

~~(e)~~(g) “Educator” means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has

exposure to a pupil specified in ~~subsections (a)(1) through (5) of K.S.A. 72-89b03(a)(1) through (5), and amendments thereto.~~

(h) “Evidence-based” means practices, policies, procedures and programs demonstrated by research to produce reduction in the likelihood of reoffending.

(i) “Graduated responses” means a system of community-based sanctions and incentives developed pursuant to K.S.A. 75-7023(h) and section 2, and amendments thereto, used to address violations of immediate interventions, terms and conditions of probation and conditional release and to incentivize positive behavior.

(j) “Immediate intervention” means all programs or practices developed by the county to hold juvenile offenders accountable while allowing such offenders to be diverted from formal court processing pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto.

~~(f)~~(k) “Institution” means the following institutions: The Atchison juvenile correctional facility, the Larned juvenile correctional facility and the Kansas juvenile correctional complex.

~~(g)~~(l) “Investigator” means an employee of the juvenile justice authority assigned by the commissioner with the responsibility for investigations concerning employees at the juvenile correctional facilities and juveniles in the custody of the commissioner at a juvenile correctional facility.

~~(h)~~(m) “Jail” means: (1) An adult jail or lockup; or

(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

~~(i)~~(n) “Juvenile” means a person to whom one or more of the following applies, the person: (1) Is 10 or more years of age but less than 18 years of age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as a juvenile offender and continues to be subject to the jurisdiction of the court.

~~(j)~~(o) “Juvenile correctional facility” means a facility operated by the ~~commissioner~~ secretary of corrections for the commitment of juvenile offenders.

~~(k)~~(p) “Juvenile corrections officer” means a certified employee of the ~~juvenile justice authority~~ department of corrections working at a juvenile correctional facility assigned by the ~~commissioner~~ secretary of corrections with responsibility for maintaining custody, security and control



of juveniles in the custody of the ~~commissioner~~ *secretary of corrections* at a juvenile correctional facility.

~~(h)~~(q) “Juvenile detention facility” means a public or private facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, which is used for the lawful custody of alleged or adjudicated juvenile offenders.

~~(m)~~(r) “Juvenile intake and assessment worker” means a responsible adult *trained and* authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

~~(n)~~(s) “Juvenile offender” means a person who commits an offense while 10 or more years of age but less than 18 years of age which if committed by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2015 Supp. 21-5102, and amendments thereto, or who violates the provisions of K.S.A. 41-727, ~~subsection (j) of~~ K.S.A. 74-8810(j) or ~~subsection (a)(14) of~~ K.S.A. 2015 Supp. 21-6301(a)(14), and amendments thereto, but does not include:

(1) A person 14 or more years of age who commits a traffic offense, as defined in ~~subsection (d) of~~ K.S.A. 8-2117(d), and amendments thereto;

(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

(3) a person under 18 years of age who previously has been:

(A) Convicted as an adult under the Kansas criminal code;

(B) sentenced as an adult under the Kansas criminal code following termination of status as an extended jurisdiction juvenile pursuant to K.S.A. 2015 Supp. 38-2364, and amendments thereto; or

(C) convicted or sentenced as an adult in another state or foreign jurisdiction under substantially similar procedures described in K.S.A. 2015 Supp. 38-2347, and amendments thereto, or because of attaining the age of majority designated in that state or jurisdiction.

~~(o)~~(t) “Law enforcement officer” means any person who by virtue of that person’s office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(u) “Overall case length limit” *when used in relation to a juvenile adjudicated a juvenile offender means the maximum jurisdiction of the court following disposition on an individual case. Pursuant to K.S.A. 2015 Supp. 38-2304, and amendments thereto, the case and the court’s jurisdiction shall terminate once the overall case length limit expires and may not be extended.*

~~(p)~~(v) “Parent” when used in relation to a juvenile, includes a guardian and every person who is, by law, liable to maintain, care for or support the juvenile.

(w) “Probation” *means a period of community supervision ordered*

pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, overseen by either court services or community corrections, but not both.

(x) “Reintegration plan” means a written document prepared in consultation with the child’s parent or guardian that:

(1) Describes the reintegration goal, which, if achieved, will most likely give the juvenile and the victim of the juvenile a permanent and safe living arrangement;

(2) describes the child’s level of physical health, mental and emotional health and educational functioning;

(3) provides an assessment of the needs of the child and family;

(4) describes the services to be provided to the child, the child’s family and the child’s foster parents, if appropriate;

(5) includes a description of the tasks and responsibilities designed to achieve the plan and to whom assigned;

(6) includes measurable objectives and time schedules for achieving the plan; and

(7) if the child is in an out of home placement:

(A) Provides a statement for the basis of determining that reintegration is determined not to be a viable option if such a determination is made and includes a plan for another permanent living arrangement;

(B) describes available alternatives;

(C) justifies the alternative placement selected, including a description of the safety and appropriateness of such placement; and

(D) describes the programs and services that will help the child prepare to live independently as an adult.

~~(q)~~(y) “Risk and needs assessment tool” means ~~an~~ a standardized instrument administered to on juveniles which delivers a score, or group of scores, describing, but not limited to describing, the juvenile’s potential risk to the community to identify specific risk factors and needs shown to be statistically related to a juvenile’s risk of reoffending and, when properly addressed, can reduce a juvenile’s risk of reoffending.

~~(r)~~ “Sanctions house” means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control the behavior of its residents. Upon an order from the court, a licensed juvenile detention facility may serve as a sanctions house.

~~(s)~~(z) “Secretary” means the secretary of corrections or the secretary’s designee.

(aa) “Technical violation” means an act that violates the terms or conditions imposed as part of a probation disposition pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, and that does not consti-

*tute a new juvenile offense or a new child in need of care violation pursuant to K.S.A. 2015 Supp. 38-2202(d), and amendments thereto.*

(bb) “Warrant” means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

~~(+)(cc)~~ “Youth residential facility” means any home, foster home or structure which provides 24-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 30. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2304 is hereby amended to read as follows: 38-2304. (a) Except as provided in K.S.A. 2015 Supp. 38-2347, and amendments thereto, proceedings concerning a juvenile shall be governed by the provisions of this code.

(b) The district court shall have original jurisdiction to receive and determine proceedings under this code.

(c) When a complaint is filed under this code, the juvenile shall be presumed to be subject to this code, unless the contrary is proved.

(d) Once jurisdiction is acquired by the district court over an alleged juvenile offender, except as otherwise provided in subsection (e), jurisdiction shall continue until one of the following occurs:

- (1) The complaint is dismissed;
- (2) the juvenile is adjudicated not guilty at trial;
- (3) the juvenile, after being adjudicated guilty and sentenced:
  - (i) Successfully completes the term of probation ~~or order of assignment to community corrections;~~

(ii) is discharged by the ~~commissioner~~ *secretary* pursuant to K.S.A. 2015 Supp. 38-2376, and amendments thereto;

(iii) reaches the juvenile’s 21<sup>st</sup> birthday and no exceptions apply that extend jurisdiction beyond age 21; *or*

(iv) *reaches the overall case length limit;*

(4) the court terminates jurisdiction; *or*

(5) ~~the offender is convicted of a new felony while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2015 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony~~ *juvenile is convicted of a crime as an adult pursuant to chapter 22 of the Kansas Statutes Annotated, and amendments thereto.*

(e) Once jurisdiction is acquired by the district court over an alleged juvenile offender, it shall continue beyond the juvenile offender’s 21<sup>st</sup> birthday but no later than the juvenile offender’s 23<sup>rd</sup> birthday if: ~~either or both of the following conditions apply:~~

(1) The juvenile offender is sentenced pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, and the term of the sentence includ-

ing successful completion of ~~aftercare~~ *conditional release* extends beyond the juvenile offender's 21<sup>st</sup> birthday, ~~or but does not extend beyond the overall case length limit; or~~

(2) the juvenile offender is sentenced pursuant to an extended jurisdiction juvenile prosecution and continues to successfully serve the sentence imposed pursuant to the revised Kansas juvenile justice code.

(f) Termination of jurisdiction pursuant to this section shall have no effect on the juvenile offender's continuing responsibility to pay restitution ordered.

(g) (1) If a juvenile offender, at the time of sentencing, is in an out of home placement in the custody of the secretary for children and families under the Kansas code for care of children, the sentencing court may order the continued placement of the juvenile offender as a child in need of care ~~unless the offender was adjudicated for a felony or a second or subsequent misdemeanor. In such case, the secretary for children and families shall address issues of abuse and neglect by parents and prepare parents for the child's return home.~~

(2) ~~Court services, community corrections and the department of corrections shall address the risks and needs of the juvenile offender according to the results of the risk and needs assessment. If the adjudication was for a felony or a second or subsequent misdemeanor, the continued placement cannot be ordered unless the court finds there are compelling circumstances which, in the best interest of the juvenile offender, require that the placement should be continued. In considering whether compelling circumstances exist, the court shall consider the reports and recommendations of the foster placement, the contract provider, the secretary for children and families, the presentence investigation and all other relevant factors. If the foster placement refuses to continue the juvenile in the foster placement the court shall not order continued placement as a child in need of care.~~

~~(2) If a placement with the secretary for children and families is continued after sentencing, the secretary shall not be responsible for any costs of sanctions imposed under this code.~~

(3) If the juvenile offender is placed in the custody of the ~~juvenile justice authority~~ *secretary of corrections*, the secretary for children and families shall ~~not~~ be responsible for ~~furnishing~~ *collaborating with the department of corrections to furnish* services ordered in the child in need of care proceeding during the time of the placement pursuant to the revised Kansas juvenile justice code. Nothing in this subsection shall preclude the juvenile offender from accessing ~~other~~ services provided by the Kansas department for children and families or any other state agency if the juvenile offender is otherwise eligible for the services.

(h) A court's order issued in a proceeding pursuant to this code, shall take precedence over such orders in a proceeding under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas

family law code, a proceeding under article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, a proceeding under article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, a proceeding under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators, or a comparable case in another jurisdiction, except as provided by K.S.A. 2015 Supp. 23-37,101 et seq., and amendments thereto, uniform child custody jurisdiction and enforcement act.

Sec. 31. K.S.A. 2015 Supp. 38-2313 is hereby amended to read as follows: 38-2313. (a) Fingerprints or photographs shall not be taken of any juvenile who is taken into custody for any purpose, except that:

(1) Fingerprints or photographs of a juvenile may be taken if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall be taken, and photographs of a juvenile may be taken, immediately upon taking the juvenile into custody or upon first appearance or in any event before final sentencing, before the court for an offense which, if committed by an adult, would constitute the commission of a felony, a class A or B misdemeanor or assault, as defined in ~~subsection (a) of K.S.A. 2015 Supp. 21-5412(a)~~, and amendments thereto;

(3) fingerprints or photographs of a juvenile may be taken under K.S.A. 21-2501, and amendments thereto, if the juvenile has been: (A) Prosecuted as an adult pursuant to K.S.A. 2015 Supp. 38-2347, and amendments thereto; or (B) taken into custody for an offense described in ~~subsection (n)(1) or (n)(2) of K.S.A. 2015 Supp. 38-2302(s)(1) or (s)(2)~~, and amendments thereto;

(4) fingerprints or photographs shall be taken of any juvenile admitted to a juvenile correctional facility; and

(5) photographs may be taken of any juvenile placed in a juvenile detention facility. Photographs taken under this paragraph shall be used solely by the juvenile detention facility for the purposes of identification, security and protection and shall not be disseminated to any other person or agency except after an escape and necessary to assist in apprehension.

(b) Fingerprints and photographs taken under subsection (a)(1) or (a)(2) shall be kept readily distinguishable from those of persons of the age of majority. Fingerprints and photographs taken under subsections (a)(3) and (a)(4) may be kept in the same manner as those of persons of the age of majority.

(c) Fingerprints and photographs of a juvenile shall not be sent to a state or federal repository, except that:

(1) Fingerprints and photographs may be sent to the state and federal repository if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall, and photographs of a juvenile may,

be sent to the state and federal repository if taken under subsection (a)(2) or (a)(4); and

(3) fingerprints or photographs taken under subsection (a)(3) shall be processed and disseminated in the same manner as those of persons of the age of majority.

(d) Fingerprints or photographs of a juvenile may be furnished to another juvenile justice agency, as defined by K.S.A. 2015 Supp. 38-2325, and amendments thereto, if the other agency has a legitimate need for the fingerprints or photographs.

(e) Any fingerprints or photographs of an alleged juvenile offender taken under the provisions of ~~subsection (a)(2) of~~ K.S.A. 38-1611(a)(2), prior to its repeal, may be sent to a state or federal repository on or before December 31, 2006.

(f) Any law enforcement agency that willfully fails to submit any fingerprints or photographs required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding \$500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(g) The director of the Kansas bureau of investigation shall adopt any rules and regulations necessary to implement, administer and enforce the provisions of this section, including time limits within which fingerprints shall be sent to a state or federal repository when required by this section.

(h) Nothing in this section shall preclude the custodian of a juvenile from authorizing photographs or fingerprints of the juvenile to be used in any action under the Kansas parentage act, K.S.A. 2015 Supp. 23-2201 et seq., and amendments thereto.

Sec. 32. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2325 is hereby amended to read as follows: 38-2325. As used in K.S.A. 2015 Supp. 38-2326, and amendments thereto, unless the context otherwise requires:

(a) “Central repository” has the meaning provided by K.S.A. 22-4701, and amendments thereto.

(b) “Director” means the director of the Kansas bureau of investigation.

(c) “Juvenile offender information” means data relating to juveniles alleged or adjudicated to be juvenile offenders and offenses committed or alleged to have been committed by juveniles in proceedings pursuant to the Kansas juvenile code, the Kansas juvenile justice code or the revised Kansas juvenile justice code, *including, but not limited to:*

- (1) *Data related to the use of detention risk assessment tool;*
- (2) *individual level data for juveniles on probation;*
- (3) *costs for juveniles on probation;*
- (4) *individual level data regarding juvenile filings;*
- (5) *risk and needs assessment override data;*

(6) *violation data for juveniles on probation; and*  
 (7) *the following information for juveniles who enter into an immediate intervention plan:*

(A) *The number of juvenile offenders who were diverted at the point of initial law enforcement contact by juvenile intake and assessment, by the county or district attorney before filing with the court and by the county or district attorney after filing with the court;*

(B) *the number of notice to appear citations issued and the number of school-based notice to appear citations issued in each school district;*

(C) *new offense referrals to juvenile court or criminal court within three years of completion of an immediate intervention, release from court jurisdiction or release from agency custody;*

(D) *juvenile offender adjudications or child in need of care adjudications for a status offense or conviction by a criminal court within three years of completion of the immediate intervention, release from court jurisdiction or release from agency custody;*

(E) *the length of supervision for immediate interventions; and*

(F) *rates of immediate intervention completions and failures, including the reasons for such failures.*

(d) “Juvenile justice agency” means any county or district attorney, law enforcement agency of this state or of any political subdivision of this state, court of this state or of a municipality of this state, administrative agency of this state or any political subdivision of this state, juvenile correctional facility or juvenile detention facility.

(e) “Reportable event” means:

- (1) Issuance of a warrant to take a juvenile into custody;
- (2) taking a juvenile into custody pursuant to this code;
- (3) release of a juvenile who has been taken into custody pursuant to this code, without the filing of a complaint;
- (4) dismissal of a complaint filed pursuant to this code;
- (5) a trial in a proceeding pursuant to this code;
- (6) a sentence in a proceeding pursuant to this code;
- (7) commitment to or placement in a ~~youth residential facility~~, juvenile detention facility or juvenile correctional facility pursuant to this code;
- (8) release or discharge from commitment or jurisdiction of the court pursuant to this code;
- (9) escaping from commitment or absconding from placement pursuant to this code;
- (10) entry of a mandate of an appellate court that reverses the decision of the trial court relating to a reportable event;
- (11) an order authorizing prosecution as an adult;
- (12) the issuance of an intake and assessment report;
- (13) the report from a reception and diagnostic center; or
- (14) any other event arising out of or occurring during the course of

proceedings pursuant to this code and declared to be reportable by rules and regulations of the director.

Sec. 33. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2330 is hereby amended to read as follows: 38-2330. (a) A law enforcement officer may take a juvenile into custody when:

(1) Any offense has been or is being committed in the officer's view;

(2) the officer has a warrant commanding that the juvenile be taken into custody;

(3) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein;

(4) the officer has probable cause to believe that the juvenile is committing or has committed an act which, if committed by an adult, would constitute:

(A) A felony; or

(B) a misdemeanor and: (i) The juvenile will not be apprehended or evidence of the offense will be irretrievably lost unless the juvenile is immediately taken into custody; or (ii) the juvenile may cause injury to self or others or damage to property or may be injured unless immediately taken into custody;

(5) the officer has probable cause to believe that the juvenile has violated an order for electronic monitoring as a term of probation; or

(6) the officer receives a written statement pursuant to subsection (c).

(b) A court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may take a juvenile into custody when: (1) There is a warrant commanding that the juvenile be taken into custody; *or* (2) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein; ~~or (3) there is probable cause to believe that the juvenile has violated a term of probation or placement.~~

(c) Any court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, ~~may arrest a juvenile without a warrant or may request any other officer with power of arrest to arrest a juvenile without a warrant by giving the officer~~ *the court* a written statement setting forth that the juvenile, in the judgment of the court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, has violated the condition of the juvenile's *conditional release from detention or probation, for the third or subsequent time and the juvenile poses a significant risk of physical harm to another or damage to property.* ~~The written statement delivered with the juvenile by the arresting officer~~



~~to the official in charge of a juvenile detention facility or other place of detention shall be sufficient warrant for the detention of the juvenile.~~

(d) (1) ~~A juvenile taken into custody by a law enforcement officer or other person authorized pursuant to subsection (b) shall be brought without unnecessary delay to an intake and assessment worker if an intake and assessment program exists in the jurisdiction, or before the court for proceedings in accordance with this code or, if the court is not open for the regular conduct of business, to a court services officer, a juvenile intake and assessment worker, a juvenile detention facility or youth residential facility which the court or the commissioner shall have designated. The officer shall not take the juvenile to a juvenile detention facility unless the juvenile meets one or more of the criteria listed in subsection (b) of K.S.A. 2015 Supp. 38-2331, and amendments thereto. If the juvenile meets one or more of such criteria, the officer shall first consider whether taking the juvenile to an available nonsecure facility is more appropriate the custody of the juvenile's parent or other custodian, unless there are reasonable grounds to believe that such action would not be in the best interests of the child or would pose a risk to public safety or property.~~

(2) *If the juvenile cannot be delivered to the juvenile's parent or custodian, the officer may:*

(A) *Issue a notice to appear pursuant to subsection (g); or*

(B) *contact or deliver the juvenile to an intake and assessment worker for completion of the intake and assessment process pursuant to K.S.A. 75-7023, and amendments thereto.*

(3) It shall be the duty of the officer to furnish the county or district attorney and the juvenile intake and assessment worker if the officer has delivered the juvenile to the worker *or issued a notice to appear consistent with subsection (g)*, with all of the information in the officer's possession pertaining to the juvenile, the juvenile's parent or other persons interested in or likely to be interested in the juvenile and all other facts and circumstances which caused the juvenile to be arrested or taken into custody.

(e) In the absence of a court order to the contrary, the court or officials designated by the court, the county or district attorney or the law enforcement agency taking a juvenile into custody shall ~~have the authority to~~ direct the release prior to the time specified by ~~subsection (a) of K.S.A. 2015 Supp. 38-2343(a), and amendments thereto. In addition, if an agreement is established pursuant to K.S.A. 75-7023 and K.S.A. 2015 Supp. 38-2346, and amendments thereto, a juvenile intake and assessment worker shall have the authority to~~ direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process ~~if the juvenile intake and assessment worker has reason to believe that if released the juvenile will appear for further proceedings and will not be dangerous to self or others.~~

(f) Whenever a person 18 years of age or more is taken into custody by a law enforcement officer for an alleged offense which was committed prior to the time the person reached the age of 18, the officer shall notify and refer the matter to the court for proceedings pursuant to this code, except that the provisions of this code relating to detention hearings shall not apply to that person. If *such person is eligible for detention is necessary, and all suitable alternatives to detention have been exhausted*, the person shall be detained in jail. Unless the law enforcement officer took the person into custody pursuant to a warrant issued by the court and the warrant specifies the amount of bond or indicates that the person may be released on personal recognizance, the person shall be taken before the court of the county where the alleged act took place or, at the request of the person, the person shall be taken, without delay, before the nearest court. The court shall fix the terms and conditions of an appearance bond upon which the person may be released from custody. The provisions of article 28 of chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901, and amendments thereto, relating to appearance bonds and review of conditions and release shall be applicable to appearance bonds provided for in this section.

(g) (1) *Whenever a law enforcement officer detains any juvenile and such juvenile is not immediately taken to juvenile intake and assessment services, the officer may serve upon such juvenile a written notice to appear. Such notice to appear shall contain the name and address of the juvenile detained, the crime charged and the location and phone number of the juvenile intake and assessment services office where the juvenile will need to appear with a parent or guardian.*

(2) *The juvenile intake and assessment services office specified in such notice to appear must be contacted by the juvenile or a parent or guardian no more than 48 hours after such notice is given, excluding weekends and holidays.*

(3) *The juvenile detained, in order to secure release as provided in this section, must give a written promise to call within the time specified by signing the written notice prepared by the officer. The original notice shall be retained by the officer and a copy shall be delivered to the juvenile detained and that juvenile's parent or guardian if such juvenile is under 18 years of age. The officer shall then release the juvenile.*

(4) *The law enforcement officer shall cause to be filed, without unnecessary delay, a complaint with juvenile intake and assessment services in which a juvenile released pursuant to paragraph (3) is given notice to appear, charging the crime stated in such notice. A copy shall also be provided to the district or county attorney. If the juvenile released fails to contact juvenile intake and assessment services as required in the notice to appear, juvenile intake and assessment services shall notify the district or county attorney.*

(5) *The notice to appear served pursuant to paragraph (1) and the*

*complaint filed pursuant to paragraph (4) may be provided to the juvenile in a single citation.*

Sec. 34. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2331 is hereby amended to read as follows: 38-2331. (a) ~~If no prior order removing a juvenile from the juvenile's home pursuant to K.S.A. 2015 Supp. 38-2334 or 38-2335, and amendments thereto, has been made, The court shall not enter an order removing a juvenile from the custody of a parent pursuant to this section unless the court first finds probable cause that a detention risk assessment conducted pursuant to K.S.A. 75-7023(d), and amendments thereto, has assessed the juvenile as detention-eligible or there are grounds to override the results of a detention risk assessment tool and the court finds probable cause that:~~

~~(1) (A) The juvenile is likely to sustain harm if not immediately removed from the home;~~

~~(B) allowing the juvenile to remain in home is contrary to the welfare of the juvenile, or~~

~~(C) immediate placement of the juvenile is in the juvenile's best interest; and~~

~~(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or that an emergency exists which threatens the safety of the juvenile. The court shall state the basis for each finding in writing.~~

~~(b) Except as provided in subsection (c), a juvenile may be placed in a juvenile detention facility pursuant to subsection (c) or (d) of K.S.A. 2015 Supp. 38-2330 or subsection (c) of K.S.A. 2015 Supp. 38-2343, and amendments thereto, if one or more of the following conditions are met:~~

~~(1) There is oral or written verification that the juvenile is a fugitive sought for an offense in another jurisdiction, that the juvenile is currently an escapee from a juvenile detention facility or that the juvenile has absconded from a placement that is court ordered or designated by the juvenile justice authority.~~

~~(2) There is probable cause to believe that the juvenile has committed an offense which if committed by an adult would constitute a felony or any crime described in article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2015 Supp. 21-6419 through 21-6421, and amendments thereto.~~

~~(3) The juvenile has been adjudicated for a nonstatus offense and is awaiting final court action on that offense.~~

~~(4) The juvenile has a record of failure to appear in court or there is probable cause to believe that the juvenile will flee the jurisdiction of the court.~~

~~(5) The juvenile has a history of violent behavior toward others.~~

~~(6) The juvenile exhibited seriously assaultive or destructive behavior or self-destructive behavior at the time of being taken into custody.~~

~~(7) The juvenile has a record of adjudication or conviction of one or more offenses which if committed by an adult would constitute a felony.~~

~~(8) The juvenile is a juvenile offender who has been expelled from placement in a nonsecure facility as a result of the current alleged offense.~~

~~(9) The juvenile has been taken into custody by any court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code pursuant to subsection (b) of K.S.A. 2015 Supp. 38-2330, and amendments thereto.~~

~~(10) The juvenile has violated probation or conditions of release:~~

~~(1) Community-based alternatives to detention are insufficient to:~~

~~(A) Secure the presence of the juvenile at the next hearing as evidenced by a demonstrable record of recent failures to appear at juvenile court proceedings and an exhaustion of detention alternatives; or~~

~~(B) protect the physical safety of another person or property from serious threat if the juvenile is not detained; and~~

~~(2) The court shall state the basis for each finding in writing.~~

~~(b) Community-based alternatives to detention shall include, but not be limited to:~~

~~(1) Release on the youth's promise to appear;~~

~~(2) release to a parent, guardian or custodian upon the youth's assurance to secure such youth's appearance;~~

~~(3) release with the imposition of reasonable restrictions on activities, associations, movements and residence specifically related to securing the youth's appearance at the next court hearing;~~

~~(4) release to a voluntary community supervision program;~~

~~(5) release to a mandatory, court-ordered community supervision program;~~

~~(6) release with mandatory participation in an electronic monitoring program with minimal restrictions on the youth's movement; or~~

~~(7) release with mandatory participation in an electronic monitoring program allowing the youth to leave home only to attend school, work, court hearings or other court-approved activities.~~

~~(c) No juvenile shall be placed in a juvenile detention center solely due to:~~

~~(1) A lack of supervision alternatives or service options;~~

~~(2) a parent avoiding legal responsibility;~~

~~(3) a risk of self-harm;~~

~~(4) contempt of court;~~

~~(5) a violation of a valid court order; or~~

~~(6) technical violations of conditional release unless there is probable cause that the juvenile poses a significant risk of harm to others or damage to property or the applicable graduated responses or sanctions protocol allows such placement.~~

~~(e)(d) No person 18 years of age or more shall be placed in a juvenile detention center.~~

Sec. 35. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2332 is hereby amended to read as follows: 38-2332. (a) No juvenile shall be detained or placed in any jail pursuant to the revised Kansas juvenile justice code except as provided by subsections (b), (c) and (d) *and subject to K.S.A. 2015 Supp. 38-2330 and 38-2331, and amendments thereto.*

(b) Upon being taken into custody, a juvenile may be detained temporarily in a jail, in quarters with sight and sound separation from adult prisoners, for the purpose of identifying and processing the juvenile and transferring the juvenile to a ~~youth residential facility~~ or juvenile detention facility. If a juvenile is detained in jail under this subsection, the juvenile shall be detained only for the minimum time necessary, not to exceed six hours, and in no case overnight.

(c) The provisions of this section shall not apply to detention of a juvenile:

(1) (A) Against whom a motion has been filed requesting prosecution as an adult pursuant to ~~subsection (a)(2) of~~ K.S.A. 2015 Supp. 38-2347(a)(2), and amendments thereto; and (B) who has received the benefit of a detention hearing pursuant to K.S.A. 2015 Supp. 38-2331, and amendments thereto;

(2) whose prosecution as an adult or classification as an extended jurisdiction juvenile has been authorized pursuant to K.S.A. 2015 Supp. 38-2347, and amendments thereto; or

(3) who has been convicted previously as an adult under the code of criminal procedure or the criminal laws of another state or foreign jurisdiction.

(d) The provisions of this section shall not apply to the detention of any person 18 years of age or more who is taken into custody and is being prosecuted in accordance with the provisions of the revised Kansas juvenile justice code.

(e) ~~The Kansas juvenile justice authority or the authority's department of corrections or the department's~~ contractor shall have authority to review jail records to determine compliance with the provisions of this section.

Sec. 36. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2342 is hereby amended to read as follows: 38-2342. The court may issue a warrant commanding the juvenile be taken into custody if there is probable cause to believe: (a) That an offense was committed and it was committed by the juvenile; (b) the juvenile violated probation, conditional release, ~~or conditions of release or placement from detention for a third or subsequent time and the juvenile poses a significant risk of physical harm to another or damage to property;~~ or (c) the juvenile has escaped from a facility. The warrant shall designate where or to whom the juvenile is to be taken *pursuant to K.S.A. 2015 Supp. 38-2330(d)(1), and amendments thereto*, if the court is not open for the regular conduct of business. The

warrant shall describe the offense or violation charged in the complaint or the applicable circumstances of the juvenile's absconding or escaping.

Sec. 37. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2343 is hereby amended to read as follows: 38-2343. (a) *Basis for extended detention; findings and placement.* Whenever a juvenile is taken into custody, the juvenile shall not remain in detention for more than 48 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, from the time the initial detention was imposed, unless the court determines after hearing, within the 48-hour period, that further detention is necessary because detention is warranted in light of all relevant factors, including, but not limited to, based on the criteria listed in K.S.A. 2015 Supp. 38-2331, and amendments thereto, and the juvenile is dangerous to self or others or is not likely to appear for further proceedings.

(b)(1) If the juvenile is in custody on the basis of a new offense which would be a felony or misdemeanor if committed by an adult and no prior judicial determination of probable cause has been made, the court shall determine whether there is probable cause to believe that the juvenile has committed the alleged offense.

~~(2) If the court finds the juvenile is dangerous to self or others, the juvenile may be detained in a juvenile detention facility or youth residential facility which the court shall designate.~~

~~(3) If the court finds the juvenile is not likely to appear for further proceedings, the juvenile may be detained in a juvenile detention facility or youth residential facility which the court shall designate or may be released upon the giving of an appearance bond in an amount specified by the court and on the conditions the court may impose, in accordance with the applicable provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.~~

~~(4)(2) In the absence of the necessary findings, the court shall order the juvenile released or placed in temporary custody as provided in subsection (g).~~

~~(b)(c) Waiver of detention hearing.~~ The detention hearing may be waived in writing by the juvenile and the juvenile's attorney with approval of the court. The right to a detention hearing may be reasserted in writing by the juvenile or the juvenile's attorney or parent at anytime not less than 48 hours prior to trial.

~~(c)(d) Notice of hearing.~~ Whenever it is determined that a detention hearing is required the court shall immediately set the time and place for the hearing. Except as otherwise provided by ~~subsection (c)(1) of K.S.A. 2015 Supp. 38-2332(c)(1)~~, and amendments thereto, notice of the detention hearing shall be given at least 24 hours prior to the hearing, unless waived.

When there is insufficient time to give written notice, oral notice may

be given and is completed upon filing a certificate of oral notice with the clerk.

~~(d)~~(e) *Attorney for juvenile.* At the time set for the detention hearing if no retained attorney is present to represent the juvenile, the court shall appoint an attorney, and may recess the hearing for 24 hours, excluding Saturdays, Sundays and legal holidays, to obtain attendance of the attorney appointed.

~~(e)~~(f) *Hearing.* (1) The detention hearing is an informal procedure to which the ordinary rules of evidence do not apply. The court may consider affidavits, *detention risk assessment tool results*, professional reports and representations of counsel to make the necessary findings, if the court determines that these materials are sufficiently reliable.

(2) If probable cause to believe that the juvenile has committed an alleged offense is contested, the court shall allow the opportunity to present contrary evidence or information upon request.

(3) If the court orders the juvenile to be detained in a juvenile detention facility, the court shall record the specific findings of fact upon which the order is based, *including any reasons for overriding a detention risk assessment tool score.*

~~(f)~~(g) *Rehearing.* (1) If detention is ordered and the parent was not notified of the hearing and did not appear and later requests a rehearing, the court shall rehear the matter without unnecessary delay.

(2) Within 14 days of the detention hearing, if the juvenile had not previously presented evidence regarding the determination of probable cause to believe that the juvenile has committed an offense, the juvenile may request a rehearing to contest the determination of probable cause to believe that the juvenile has committed an offense. The rehearing request shall identify evidence or information that the juvenile could not reasonably produce at the detention hearing. If the court determines that the evidence or information could not reasonably be produced at the detention hearing, the court shall rehear the matter without unnecessary delay.

~~(g)~~ *Temporary custody.* ~~If the court determines that detention is not necessary but finds that release to the custody of a parent is not in the best interests of the juvenile, the court may place the juvenile in the temporary custody of some suitable person willing to accept temporary custody or the commissioner. Such finding shall be made in accordance with K.S.A. 2015 Supp. 38-2334 and 38-2335, and amendments thereto.~~

(h) *Audio-video communications.* Detention hearings may be conducted by two-way electronic audio-video communication between the juvenile and the judge in lieu of personal presence of the juvenile or the juvenile's attorney in the courtroom from any location within Kansas in the discretion of the court. The juvenile may be accompanied by the juvenile's attorney during such proceedings or the juvenile's attorney may

be personally present in court as long as a means of confidential communication between the juvenile and the juvenile's attorney is available.

(i) *Review hearing.* The court shall hold a detention review hearing at least every 14 days that a juvenile is in detention to determine if the juvenile should continue to be held in detention. The provisions of this subsection shall not apply if the juvenile is charged with a crime that, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

Sec. 38. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2344 is hereby amended to read as follows: 38-2344. (a) When the juvenile appears without an attorney in response to a complaint, the court shall inform the juvenile of the following:

- (1) The nature of the charges in the complaint;
- (2) the right to hire an attorney of the juvenile's own choice;
- (3) the duty of the court to appoint an attorney for the juvenile if no attorney is hired by the juvenile or parent; ~~and~~
- (4) that the court may require the juvenile or parent to pay the expense of a court appointed attorney; *and*
- (5) *the right to be offered an immediate intervention pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto.*

Upon request the court shall give the juvenile or parent an opportunity to hire an attorney. If no request is made or the juvenile or parent is financially unable to hire an attorney, the court shall ~~forthwith~~ *promptly* appoint an attorney for the juvenile. The court shall afford the juvenile an opportunity to confer with the attorney before requiring the juvenile to plead to the allegations of the complaint.

(b) When the juvenile appears with an attorney in response to a complaint, the court shall require the juvenile to plead guilty, nolo contendere or not guilty to the allegations stated in the complaint, unless there is an application for and approval of an immediate intervention program. Prior to making this requirement, the court shall inform the juvenile of the following:

- (1) The nature of the charges in the complaint;
- (2) the right of the juvenile to be presumed innocent of each charge;
- (3) the right to jury trial without unnecessary delay;
- (4) the right to confront and cross-examine witnesses appearing in support of the allegations of the complaint;
- (5) the right to subpoena witnesses;
- (6) the right of the juvenile to testify or to decline to testify; and
- (7) the sentencing alternatives the court may select as the result of the juvenile being adjudicated a juvenile offender.

(c) If the juvenile pleads guilty to the allegations contained in a complaint or pleads nolo contendere, the court shall determine, before accepting the plea and entering a sentence: (1) That there has been a vol-



untary waiver of the rights enumerated in subsections (b)(2), (3), (4), (5) and (6); and (2) that there is a factual basis for the plea.

(d) If the juvenile pleads not guilty, the court shall schedule a time and date for trial to the court.

(e) First appearance may be conducted by two-way electronic audio-video communication between the juvenile and the judge in lieu of personal presence of the juvenile or the juvenile's attorney in the courtroom from any location within Kansas in the discretion of the court. The juvenile may be accompanied by the juvenile's attorney during such proceedings or the juvenile's attorney may be personally present in court as long as a means of confidential communication between the juvenile and the juvenile's attorney is available.

Sec. 39. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2346 is hereby amended to read as follows: 38-2346. (a) ~~Except as provided in subsection (b),~~ Each *director of juvenile intake and assessment services in collaboration with the county or district attorney* ~~may~~ shall adopt a policy and establish guidelines for an immediate intervention ~~program~~ process by which a juvenile may avoid prosecution. ~~The guidelines may include information on any offenders beyond those enumerated in subsection (b)(1) that shall be referred to immediate intervention.~~ In addition to the county or district attorney *juvenile intake and assessment services* adopting policies and guidelines for the immediate intervention ~~programs~~ process, the court, the county or district attorney ~~and~~, the director of the intake and assessment center, ~~and other relevant individuals or organizations,~~ pursuant to a written agreement, ~~may~~ shall collaboratively develop local programs to:

(1) Provide for the direct referral of cases *to immediate intervention programs* by the county or district attorney ~~or and~~ the intake and assessment worker, ~~or both,~~ to youth courts, restorative justice centers, hearing officers ~~or other local programs as sanctioned by the court.~~

(2) Allow intake and assessment workers to issue a summons, as defined in subsection (e) ~~or and if the county or district attorney juvenile intake and assessment services~~ has adopted appropriate policies and guidelines, allow law enforcement officers to issue such a summons.

(3) Allow the intake and assessment centers *and other immediate intervention program providers* to directly purchase services for the juvenile and the juvenile's family.

(4) Allow intake and assessment workers to direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process ~~if the juvenile intake and assessment worker has reason to believe that if released the juvenile will appear for further proceedings and is not dangerous to self or others pursuant to K.S.A. 75-7023, and amendments thereto.~~

~~(b) An immediate intervention program shall provide that an alleged~~

juvenile offender is ineligible for such program if the juvenile faces pending charges as a juvenile offender, for committing acts which, if committed by an adult, would constitute:

~~(1) A violation of K.S.A. 8-1567, and amendments thereto, and the juvenile: (A) Has previously participated in an immediate intervention program instead of prosecution of 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 adjudicated of 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, or~~

~~(2) a violation of 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 prior to July 1, 2012, or a drug severity level 1, 2 or 3 felony for drug crimes committed on or after July 1, 2012.~~

~~(c) An immediate intervention program may include a stipulation, agreed to by the juvenile, the juvenile's attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the juvenile fails to fulfill the terms of the specific immediate intervention agreement and the immediate intervention proceedings are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts.~~

~~(b)(1) A juvenile who goes through the juvenile intake and assessment process pursuant to K.S.A. 75-7023, and amendments thereto, shall be offered the opportunity to participate in an immediate intervention program and avoid prosecution if the juvenile is charged with a misdemeanor or a violation of K.S.A. 2015 Supp. 21-5507, and amendments thereto, the juvenile has no prior adjudications, and the offer is made pursuant to the guidelines developed pursuant to this section.~~

~~(2) A juvenile may also participate in an immediate intervention program if the juvenile is referred for immediate intervention by the county or district attorney pursuant to subsection (d).~~

~~(3) Any juvenile referred to immediate intervention by juvenile intake and assessment services shall, upon acceptance, work together with court services, community corrections, juvenile intake and assessment services or any other entity designated as a part of the written agreement in subsection (a) to develop an immediate intervention plan. Such plan may be supervised or unsupervised by any of the aforementioned entities. The county or district attorneys office shall not be required to supervise juveniles participating in an immediate intervention program.~~

~~(4) The immediate intervention plan shall last no longer than six months from the date of referral, unless the plan requires the juvenile to complete an evidence-based mental health or substance abuse program~~

*that extends beyond the six-month period. In such case, the plan may be extended up to two additional months.*

*(5) If the juvenile satisfactorily complies with the immediate intervention plan, such juvenile shall be discharged and the charges dismissed at the end of the time period specified in paragraph (4).*

*(6) If the juvenile fails to satisfactorily comply with the immediate intervention plan, the case shall be referred to a multidisciplinary team for review. The multidisciplinary team created pursuant to section 3, and amendments thereto, shall review the immediate intervention plan within seven days and may revise and extend such plan or terminate the case as successful. Such plan may be extended for no more than four additional months.*

*(7) If the juvenile fails to satisfactorily comply with the revised plan developed pursuant to paragraph (6), the intake and assessment worker, court services officer or community corrections officer overseeing the immediate intervention shall refer the case to the county or district attorney for consideration.*

~~(d)-(c)~~ *The county or district attorney may require the parent of a juvenile may be required to be a part of the immediate intervention program.*

*(d) For all juveniles that have fewer than two prior adjudications, the county or district attorney shall review the case upon receipt of a complaint to determine if the case should be referred for immediate intervention or whether alternative means of adjudication should be designated pursuant to K.S.A. 2015 Supp. 38-2389, and amendments thereto. The county or district attorney shall consider any recommendation of a juvenile intake and assessment worker, court services officer or community corrections officer.*

*(e) "Summons" means a written order issued by an intake and assessment worker or a law enforcement officer directing that a juvenile appear before a designated court at a stated time and place to answer a pending charge.*

~~(f) The provisions of this section shall not be applicable in judicial districts that adopt district court rules pursuant to K.S.A. 20-342, and amendments thereto, for the administration of immediate intervention programs by the district court.~~ *A juvenile who is eligible for an immediate intervention shall not be denied participation in such a program or terminated unsuccessfully due to an inability to pay fees or other associated costs. Fees assessed from such a program shall be retained by the program and shall not be used for any purpose, except development and operation of the program.*

*(g) If a juvenile substantially complies with an immediate intervention program, charges in such juvenile's case shall not be filed.*

*(h) The policies and guidelines developed pursuant to subsection (a) shall adhere to standards and procedures for immediate intervention de-*

*veloped by the department of corrections pursuant to section 6, and amendments thereto, and be based on best practices.*

Sec. 40. K.S.A. 2015 Supp. 38-2347 is hereby amended to read as follows: 38-2347. (a) (1) Except as otherwise provided in this section, at any time after commencement of proceedings under this code against a juvenile and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 2015 Supp. 38-2356, and amendments thereto, the county or district attorney or the county or district attorney's designee may file a motion requesting that the court authorize prosecution of the juvenile as an adult under the applicable criminal statute. The juvenile shall be presumed to be a juvenile ~~unless good cause is shown to prosecute the juvenile as an adult, and the presumption must be rebutted by a preponderance of the evidence.~~ No juvenile less than ~~12~~ 14 years of age shall be prosecuted as an adult.

~~(2) The alleged juvenile offender shall be presumed to be an adult if the alleged juvenile offender was: (A) 14, 15, 16 or 17 years of age at the time of the offense or offenses alleged in the complaint, if any such offense: (i) If committed by an adult, would constitute an off-grid crime, a person felony or a nondrug severity level 1 through 6 felony; (ii) committed prior to July 1, 2012, if committed by an adult prior to July 1, 2012, would constitute a drug severity level 1, 2 or 3 felony; (iii) committed on or after July 1, 2012, if committed by an adult on or after July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4 felony; or (iv) was committed while in possession of a firearm; or (B) charged with a felony or with more than one offense, one or more of which constitutes a felony, after having been adjudicated or convicted in a separate juvenile proceeding as having committed an offense which would constitute a felony if committed by an adult and the adjudications or convictions occurred prior to the date of the commission of the new act charged and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 2015 Supp. 38-2356, and amendments thereto. If the juvenile is presumed to be an adult, the burden is on the juvenile to rebut the presumption by a preponderance of the evidence.~~

~~(3)~~(2) At any time after commencement of proceedings under this code against a juvenile offender *for an offense which, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony*, and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 2015 Supp. 38-2356, and amendments thereto, the county or district attorney or the county or district attorney's designee may file a motion requesting that the court designate the proceedings as an extended jurisdiction juvenile prosecution.

~~(4)~~(3) If the county or district attorney or the county or district at-

torney's designee files a motion to designate the proceedings as an extended jurisdiction juvenile prosecution and the juvenile was 14, 15, 16 or 17 years of age at the time of the offense or offenses alleged in the complaint and: (A) Charged with an offense: (i) If committed by an adult, would constitute an off-grid crime, a person felony or a nondrug severity level 1 through 6 felony; (ii) committed prior to July 1, 2012, if committed by an adult prior to July 1, 2012, would constitute a drug severity level 1, 2 or 3 felony; (iii) committed on or after July 1, 2012, if committed by an adult on or after July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4 felony; or (iv) was committed while in possession of a firearm; or (B) charged with a felony or with more than one offense, one or more of which constitutes a felony, after having been adjudicated or convicted in a separate juvenile proceeding as having committed an act which would constitute a felony if committed by an adult and the adjudications or convictions occurred prior to the date of the commission of the new offense charged, the burden is on the juvenile to rebut the designation of an extended jurisdiction juvenile prosecution by a preponderance of the evidence. In all other motions requesting that the court designate the proceedings as an extended jurisdiction juvenile prosecution, the juvenile is presumed to be a juvenile, the burden of proof is on the prosecutor to prove the juvenile should be designated as an extended jurisdiction juvenile.

~~(b)~~ The motion also may contain a statement that the prosecuting attorney will introduce evidence of the offenses alleged in the complaint and request that, on hearing the motion and authorizing prosecution as an adult or designating the proceedings as an extended jurisdiction juvenile prosecution under this code, the court may make the findings required in a preliminary examination provided for in K.S.A. 22-2902, and amendments thereto, and the finding that there is no necessity for further preliminary examination.

~~(c)~~(b) (1) Upon receiving the motion, the court shall set a time and place for hearing. The court shall give notice of the hearing to the juvenile, each parent, if service is possible, and the attorney representing the juvenile. The motion shall be heard and determined prior to any further proceedings on the complaint.

(2) At the hearing, the court shall inform the juvenile of the following:

- (A) The nature of the charges in the complaint;
- (B) the right of the juvenile to be presumed innocent of each charge;
- (C) the right to trial without unnecessary delay and to confront and cross-examine witnesses appearing in support of the allegations of the complaint;

- (D) the right to subpoena witnesses;

- (E) the right of the juvenile to testify or to decline to testify; and

- (F) the sentencing alternatives the court may select as the result of

the juvenile being prosecuted under an extended jurisdiction juvenile prosecution.

~~(d)~~(c) If the juvenile fails to appear for hearing on the motion after having been served with notice of the hearing, the court may hear and determine the motion in the absence of the juvenile. If the court is unable to obtain service of process and give notice of the hearing, the court may hear and determine the motion in the absence of the alleged juvenile offender after having given notice of the hearing at least once a week for two consecutive weeks in the official county newspaper of the county where the hearing will be held.

~~(e)~~(d) In determining whether or not prosecution as an adult should be authorized or designating the proceeding as an extended jurisdiction juvenile prosecution, the court shall consider each of the following factors:

(1) The seriousness of the alleged offense and whether the protection of the community requires prosecution as an adult or designating the proceeding as an extended jurisdiction juvenile prosecution;

(2) whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;

(3) whether the offense was against a person or against property. Greater weight shall be given to offenses against persons, especially if personal injury resulted;

(4) the number of alleged offenses unadjudicated and pending against the juvenile;

(5) the previous history of the juvenile, including whether the juvenile had been adjudicated a juvenile offender under this code or the Kansas juvenile justice code and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence;

(6) the sophistication or maturity of the juvenile as determined by consideration of the juvenile's home, environment, emotional attitude, pattern of living or desire to be treated as an adult;

(7) whether there are facilities or programs available to the court which are likely to rehabilitate the juvenile prior to the expiration of the court's jurisdiction under this code; and

(8) whether the interests of the juvenile or of the community would be better served by criminal prosecution or extended jurisdiction juvenile prosecution.

The insufficiency of evidence pertaining to any one or more of the factors listed in this subsection, in and of itself, shall not be determinative of the issue. Subject to the provisions of K.S.A. 2015 Supp. 38-2354, and amendments thereto, written reports and other materials relating to the juvenile's mental, physical, educational and social history may be considered by the court.

~~(f)~~(e) (1) The court may authorize prosecution as an adult upon completion of the hearing if the court finds from a preponderance of the

evidence that the alleged juvenile offender should be prosecuted as an adult for the offense charged. In that case, the court shall direct the alleged juvenile offender be prosecuted under the applicable criminal statute and that the proceedings filed under this code be dismissed.

(2) The court may designate the proceeding as an extended jurisdiction juvenile prosecution upon completion of the hearing if ~~the juvenile has failed to rebut the presumption or~~ the court finds from a preponderance of the evidence that the juvenile should be prosecuted under an extended jurisdiction juvenile prosecution.

(3) After a proceeding in which prosecution as an adult is requested pursuant to subsection (a)(2), and prosecution as an adult is not authorized, the court may designate the proceedings to be an extended jurisdiction juvenile prosecution.

(4) A juvenile who is the subject of an extended jurisdiction juvenile prosecution shall have the right to a trial by jury, to the effective assistance of counsel and to all other rights of a defendant pursuant to the Kansas code of criminal procedure. Each court shall adopt local rules to establish the basic procedures for extended jurisdiction juvenile prosecution in such court's jurisdiction.

~~(g) If the juvenile is present in court and the court also finds from the evidence that it appears a felony has been committed and that there is probable cause to believe the felony has been committed by the juvenile, the court may direct that there is no necessity for further preliminary examination on the charges as provided for in K.S.A. 22-2902, and amendments thereto. In that case, the court shall order the juvenile bound over to the district judge having jurisdiction to try the case.~~

~~(h) If the juvenile is convicted, the authorization for prosecution as an adult shall attach and apply to any future prosecutions of the juvenile which are or would be cognizable under this code. If the juvenile is not convicted, the authorization for prosecution as an adult shall not attach and shall not apply to future prosecutions of the juvenile which are or would be cognizable under this code.~~

~~(i) If the juvenile is prosecuted as an adult under subsection (a)(2) and is not convicted in adult court of an offense listed in subsection (a)(2) but is convicted or adjudicated of a lesser included offense, the juvenile shall be a juvenile offender and receive a sentence pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto.~~

Sec. 41. K.S.A. 2015 Supp. 38-2360 is hereby amended to read as follows: 38-2360. (a) At any time after the juvenile has been adjudicated to be a juvenile offender, the court shall order one or more of the tools described in this subsection to be submitted to assist the court unless the court finds that adequate and current information *from a risk and needs assessment* is available from a previous investigation, report or other sources:

(1) An evaluation and written report by a mental health or a qualified professional stating the psychological or emotional development or needs of the juvenile. The court also may order a report from any mental health or qualified professional who has previously evaluated the juvenile stating the psychological or emotional development needs of the juvenile. If the court orders an evaluation as provided in this section, a parent of the juvenile shall have the right to obtain an independent evaluation at the expense of the parent. *If the evaluation indicates that the juvenile requires acute inpatient mental health or substance abuse treatment, the court shall have the authority to compel an assessment by the secretary for aging and disability services. The court may use the results to inform a treatment and payment plan according to the same eligibility process used for non-court-involved youth.*

(2) A report of the medical condition and needs of the juvenile. The court also may order a report from any physician who has been attending the juvenile, stating the diagnosis, condition and treatment afforded the juvenile.

(3) An educational needs assessment of the juvenile from the chief administrative officer of the school which the juvenile attends or attended to provide to the court information that is readily available which the school officials feel would properly indicate the educational needs of the juvenile. The educational needs assessment may include a meeting involving any of the following: (A) The juvenile's parents; (B) the juvenile's teacher or teachers; (C) the school psychologist; (D) a school special services representative; (E) a representative of the commissioner; (F) the juvenile's court appointed special advocate; (G) the juvenile's foster parents or legal guardian; and (H) other persons that the chief administrative officer of the school, or the officer's designee, deems appropriate.

(4) Any other presentence investigation and report from a court services officer which includes: (A) The circumstances of the offense; (B) the attitude of the complainant, victim or the victim's family; (C) the record of juvenile offenses; (D) the social history of the juvenile; and (E) the present condition of the juvenile; ~~and (F) a summary of the results from a standardized risk assessment tool or instrument.~~ Except where specifically prohibited by law, all local governmental public and private educational institutions and state agencies shall furnish to the officer conducting the predispositional investigation the records the officer requests. Predispositional investigations shall contain other information prescribed by the court.

(5) The court in its discretion may direct that the parents submit a domestic relations affidavit.

(b) *A summary of the results from a risk and needs assessment shall be provided to the court post-adjudication, predisposition and used to inform supervision levels. A single, uniform risk and needs assessment shall be adopted by the office of judicial administration and the depart-*



*ment of corrections to be used in all judicial districts. The office of judicial administration and the secretary of corrections shall establish cutoff scores determining risk levels of juveniles. Training on such risk and needs assessment shall be required for all administrators of the assessment. Data shall be collected on the results of the assessment to inform a validation study on the Kansas juvenile justice population to be conducted by June 30, 2020.*

(c) Expenses for post adjudication tools may be waived or assessed pursuant to ~~subsection (c)(2) of K.S.A. 2015 Supp. 38-2314(c)(2), and amendments thereto.~~

~~(e)(d)~~ Except as otherwise prohibited by law or policy, the court shall make any of the reports ordered pursuant to subsection (a) available to the attorneys and shall allow the attorneys a reasonable time to review the report before ordering the sentencing of the juvenile offender.

~~(d)(e)~~ At any time prior to sentencing, the judge, at the request of a party, shall hear additional evidence as to proposals for reasonable and appropriate sentencing of the case.

Sec. 42. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2361 is hereby amended to read as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2015 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2015 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2015 Supp. 38-2368, and amendments thereto, ~~and subject to K.S.A. 2015 Supp. 38-2365(a), and amendments thereto,~~ the court may impose one or more of the following sentencing alternatives *for a fixed period pursuant to K.S.A. 2015 Supp. 38-2369 and section 1, and amendments thereto.* ~~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. 2015 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 pursuant to section 1, and amendments thereto,* subject to terms and conditions the court deems appropriate consistent with juvenile justice programs in the community. *Any juvenile placed on probation shall be supervised according to the juvenile's risk and needs as determined by a risk and needs assessment. Placement of juvenile offenders to community corrections for probation supervision shall be limited to offenders adjudicated for an offense that are determined to be moderate-risk, high-risk or very high-risk on a risk and needs assessment using the cutoff scores established by the secretary pursuant to K.S.A. 2015 Supp. 38-2360, and amendments thereto.*

(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 *(11)*. 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, *which is not a group home or other facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto*, 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)~~ *(11)*. 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. 2015 Supp. 21-6609, and amendments thereto.

(10) Place the juvenile in the custody of the secretary of corrections as provided in K.S.A. 2015 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. *The provisions of this paragraph shall expire on January 1, 2018.*

(11) *Upon a violation of a condition of sentence, other than a technical violation pursuant to K.S.A. 2015 Supp. 38-2368, and amendments thereto, commit the juvenile to a sanctions house detention for a period no longer than 28 30 days subject to the provisions of subsection (g).*

(12) *If the judge finds and enters into the written record that the juvenile poses a significant risk of harm to another or damage to property, and the juvenile is otherwise eligible for commitment pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, commit the juvenile directly to the custody of the secretary of corrections for a period of con-*

~~placement~~ placement in a juvenile correctional facility ~~and~~ or a youth residential facility. Placement in a youth residential facility shall only be permitted as authorized in K.S.A. 2015 Supp. 38-2369(e), and amendments thereto. If the court elects, a period of ~~aftercare~~ conditional release pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, may also be ordered. ~~The provisions of K.S.A. 2015 Supp. 38-2365, and amendments thereto, shall not apply to juveniles committed pursuant to this provision, provided however, that~~ 21 The period of conditional release shall be limited to a maximum of six months and shall be subject to graduated responses. Twenty-one days prior to the juvenile's release from a juvenile correctional facility, the 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. 2015 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 counseling 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 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), sentences a juvenile offender pursuant to subsection (a),~~ the court shall administer a risk assessment tool, as described in K.S.A. 2015 Supp. 38-2360, and amendments thereto, or review a risk assessment tool that was administered within the past six months to the juvenile *and use the results of that assessment to inform orders made pursuant to K.S.A. 2015 Supp. 38-2369 and section 1, and amendments thereto.*

(g) If the court commits the juvenile ~~to a sanctions house detention~~ pursuant to subsection (a)(11), the following provisions shall apply:

(1) ~~The court may shall only order commitment for up to 28 days for the same offense or to detention upon violation of sentencing condition conditions where all other alternatives have been exhausted.~~

(2) *In order to commit a juvenile to detention upon violation of sentencing conditions, the court shall find that the juvenile poses a significant risk of harm to another or damage to property, is charged with a new felony offense, or violates conditional release.*

(3) *The court shall not order commitment to detention upon adjudication as a juvenile offender pursuant to K.S.A. 2015 Supp. 38-2356, and amendments thereto, for solely technical violations of probation, contempt, a violation of a valid court order, to protect from self-harm or due to any state or county failure to find adequate alternatives.*

(4) *Cumulative detention use shall be limited to a maximum of 45 days over the course of a juvenile offender's case pursuant to section 1, and amendments thereto.* The court shall review ~~the any detention~~ commitment every seven days and, may shorten the initial commitment or, ~~if the initial term is less than 28 days, may extend the commitment;~~ *In no*

*case, however, may the term of detention or any extension thereof exceed the cumulative detention limit of 45 days or the overall case length limit.*

~~(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)-(5) 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 juvenile detention center, under the same time restrictions imposed by paragraph (1), but shall not be committed to or confined in a juvenile detention facility.~~

(h) Any order issued by the judge pursuant to this section shall be in effect immediately upon entry into the court's minutes.

(i) In addition to the requirements of K.S.A. 2015 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 secretary of corrections within 30 days of final disposition.

(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 K.S.A. 2015 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age; (2) rape, as defined in K.S.A. 2015 Supp. 21-5503(a)(3), and amendments thereto; (3) aggravated indecent liberties with a child, as defined in K.S.A. 2015 Supp. 21-5506(b)(3), and amendments thereto; (4) aggravated criminal sodomy, as defined in K.S.A. 2015 Supp. 21-5504(b)(1) or (b)(2), and amendments thereto; (5) commercial sexual exploitation of a child, as defined in K.S.A. 2015 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 K.S.A. 2015 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. 2015 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in 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.

(k) *The court may order a short-term alternative placement of a juvenile pursuant to subsection (a)(3) in an emergency shelter, therapeutic foster home or community integration program if:*

(1) *Such juvenile has been adjudicated to be a juvenile offender for an offense that if committed by an adult would constitute the commission of:*

(A) *Aggravated human trafficking, as defined in K.S.A. 2015 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age;*

(B) *rape, as defined in K.S.A. 2015 Supp. 21-5503, and amendments thereto;*

(C) *commercial sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age;*

(D) *sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is less than 14 years of age;*

(E) *aggravated indecent liberties with a child, as defined in K.S.A. 2015 Supp. 21-5506, and amendments thereto, if the victim is less than 14 years of age; or*

(F) *an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2015 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in paragraphs (1) through (4); and*

(2) (A) *the victim resides in the same home as the juvenile offender;*

(B) *a community supervision officer in consultation with the department for children and families determines that an adequate safety plan, which shall include the physical and psychological well-being of the victim, cannot be developed to keep the juvenile in the same home; and*

(C) *there are no relevant child in need of care issues that would permit a case to be filed under the Kansas code for care of children.*

*The presumptive term of commitment shall not extend beyond three months and the overall case length limit but may be modified pursuant to K.S.A. 2015 Supp. 38-2367 and section 8, and amendments thereto. If a child is placed outside the child's home at the dispositional hearing pursuant to this subsection and no reintegration plan is made a part of the record of the hearing, a written reintegration plan shall be prepared pursuant to section 8, and amendments thereto, and submitted to the court within 15 days of the initial order of the court.*

(l) *The sentencing hearing shall be open to the public as provided in K.S.A. 2015 Supp. 38-2353, and amendments thereto.*

(m) *The overall case length limit shall be calculated by the court and entered into the written record when one or more of the sentencing options*



*under this section are imposed. The period fixed by the court pursuant to subsection (a) shall not extend beyond the overall case length limit.*

Sec. 43. K.S.A. 2015 Supp. 38-2364 is hereby amended to read as follows: 38-2364. (a) If an extended jurisdiction juvenile prosecution results in a guilty plea or finding of guilt, the court shall:

(1) Impose one or more juvenile sentences under K.S.A. 2015 Supp. 38-2361, and amendments thereto; and

(2) impose an adult criminal sentence, the execution of which shall be stayed on the condition that the juvenile offender ~~not violate~~ *substantially comply with* the provisions of the juvenile sentence and not commit a new offense.

(b) When it appears that a person sentenced as an extended jurisdiction juvenile has violated one or more conditions of the juvenile sentence or is alleged to have committed a new offense, the court, ~~without notice, may revoke the stay and juvenile sentence and direct that the juvenile offender be immediately taken into custody and delivered to the secretary of corrections pursuant to K.S.A. 2015 Supp. 21-6712, and amendments thereto. The court shall notify the juvenile offender and such juvenile offender's attorney of record, in writing by personal service, as provided in K.S.A. 60-303, and amendments thereto, or certified mail, return receipt requested, of the reasons alleged to exist for revocation of the stay of execution of the adult sentence. If the juvenile offender challenges the reasons,~~ The court shall hold a hearing on the issue at which the juvenile offender is entitled to be heard and represented by counsel. After the hearing, if the court finds by a preponderance of the evidence that the juvenile committed a new offense or violated one or more conditions of the juvenile's sentence, the court shall revoke the juvenile sentence and order the imposition of the adult sentence previously ordered pursuant to subsection (a)(2) or, upon agreement of the county or district attorney and the juvenile offender's attorney of record, the court may modify the adult sentence previously ordered pursuant to subsection (a)(2). Upon such finding, the juvenile's extended jurisdiction status is terminated, and juvenile court jurisdiction is terminated. The ongoing jurisdiction for any adult sanction, other than the commitment to the department of corrections, is with the adult court. The juvenile offender shall be credited for time served in a juvenile correctional or detention facility on the juvenile sentence as service on any authorized adult sanction.

(c) Upon becoming 18 years of age, any juvenile who has been sentenced pursuant to subsection (a) and is serving the juvenile sentence, may move for a court hearing to review the sentence. If the sentence is continued, the court shall set a date of further review in no later than 36 months.

Sec. 44. K.S.A. 2015 Supp. 38-2367 is hereby amended to read as follows: 38-2367. (a) At any time after the entry of an order of custody or

placement of a juvenile offender, the court, upon the court's own motion or the motion of the ~~commissioner~~ *secretary of corrections* or parent or any party, may modify the sentence imposed. Upon receipt of the motion, the court shall fix a time and place for hearing and provide notice to the movant and to the current custodian and placement of the juvenile offender and to each party to the proceeding. Except as established in subsection (b), after the hearing, if the court finds that the sentence previously imposed is not in the best interests of the juvenile offender, the court may rescind and set aside the sentence, and enter any sentence pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, *and the overall case length limit*, except that a child support order which has been registered under K.S.A. 2015 Supp. 38-2321, and amendments thereto, may only be modified pursuant to K.S.A. 2015 Supp. 38-2321, and amendments thereto.

(b) If the court determines that it is in the best interests of the juvenile offender to be returned to the custody of the parent or parents, the court shall so order.

(c) ~~If, during the proceedings, the court shall rescind an order granting custody to a parent only if the court first finds~~ *determines that there is probable cause to believe that:* (1) (A) ~~The juvenile is likely to sustain harm if not immediately removed from the home;~~

~~(B) allowing the juvenile to remain in home is contrary to the welfare of the juvenile; or~~

~~(C) immediate placement of the juvenile is in the juvenile's best interest; and~~

~~(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or that an emergency exists which threatens the safety of the juvenile. The court shall state the basis of each finding~~ *the juvenile is a child in need of care as defined in K.S.A. 2015 Supp. 38-2022, and amendments thereto, the court may refer the matter to the county or district attorney, who shall file a petition as provided in K.S.A. 2015 Supp. 38-2234, and amendments thereto, and refer the family to the Kansas department for children and families for services.*

(d) *If, during the proceedings, the court finds that a juvenile offender needs a place to live and the court does not have probable cause to believe the juvenile is a child in need of care as defined in K.S.A. 2015 Supp. 38-2022, and amendments thereto, or if the child is emancipated or over the age of 17, the court may authorize participation in a community integration program.*

(e) Any time within 60 days after a court has committed a juvenile offender to a juvenile correctional facility the court may modify the sentence and enter any other sentence, except that a child support order which has been registered under K.S.A. 2015 Supp. 38-2321, and amend-

ments thereto, may only be modified pursuant to K.S.A. 2015 Supp. 38-2321, and amendments thereto.

~~(e)~~(f) Any time after a court has committed a juvenile offender to a juvenile correctional facility, the court may, upon motion by the ~~commissioner~~ *secretary of corrections*, modify the sentence and enter any other sentence if the court determines that:

(1) The medical condition of the juvenile justifies a reduction in sentence; or

(2) the juvenile's exceptional adjustment and habilitation merit a reduction in sentence.

Sec. 45. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2368 is hereby amended to read as follows: 38-2368. ~~(a)~~ If it is alleged that a juvenile offender has violated a condition of probation or of a court-ordered placement, the county or district attorney, *the current custodian of the juvenile offender*, or the victim of the offense committed by the offender, *may file a report with the assigned court services community supervision officer or the current custodian and placement of the juvenile offender. If, upon review by the assigned community supervision officer of the juvenile offender, it is determined that the violation is eligible under section 2, and amendments thereto, for review by the court, the assigned community supervision officer may file a report with the court describing the alleged violation. The court shall provide copies of the report to the parties to the proceeding. The court, upon the court's own motion or the motion of the commissioner secretary of corrections or any party, shall set the matter for hearing and may issue a warrant pursuant to K.S.A. 2015 Supp. 38-2342, and amendments thereto, if there is probable cause to believe that the juvenile poses a significant risk of physical harm to another or damage to property. Upon receipt of the motion, the court shall fix a time and place for hearing and provide notice to the movant and to the current custodian and placement of the juvenile offender and to each party to the proceeding. Except as set out in subsection (b),* If the court finds by a preponderance of the evidence that the juvenile offender violated a condition of probation or placement *or committed a technical violation for a third or subsequent time*, the court may, *subject to the overall case length limit*, extend or modify the terms of probation or placement or enter another sentence pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto, except that a child support order which has been registered under K.S.A. 2015 Supp. 38-2321, and amendments thereto, may only be modified pursuant to K.S.A. 2015 Supp. 38-2321, and amendments thereto.

~~(b)~~ The court shall not enter an order removing a juvenile from the custody of a parent pursuant to this section unless the court first finds probable cause that: (1) (A) The juvenile is likely to sustain harm if not immediately removed from the home;

~~(B) allowing the juvenile to remain in home is contrary to the welfare of the juvenile; or~~

~~(C) immediate placement of the juvenile is in the juvenile's best interest; and~~

~~(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or that an emergency exists which threatens the safety of the juvenile. The court shall state the basis of each finding in writing.~~

Sec. 46. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2369 is hereby amended to read as follows: 38-2369. (a) *Except as provided in subsection (e)*, for the purpose of committing juvenile offenders to a juvenile correctional facility, *upon a finding by the judge entered into the written order that the juvenile poses a significant risk of harm to another or damage to property*, the following placements shall be applied by the judge in ~~felony or misdemeanor cases~~ *the cases specified in this subsection*. 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. 2015 Supp. 38-2371, and amendments thereto. The term of commitment established by the court shall not exceed the overall case length limit.~~ 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. 2015 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~~ *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.

(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;

*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:*

~~(ii)~~(i) 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)~~(ii) 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 *or a nondrug severity level 5 or 6 person felony.*

Offenders in this category may be committed to a juvenile correctional facility for a minimum term of ~~18~~ *nine* months and up to a maximum term of ~~36~~ 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.~~

~~(B)~~(C) The serious offender ~~II~~ 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 7, person felony with one prior felony adjudication. *Offenders in this category may only be committed to a juvenile correctional facility if they are assessed as high-risk on a risk and needs assessment.* Offenders in this category may be committed to a juvenile correctional facility for a minimum term of ~~nine~~ six months and up to a maximum term of ~~18~~ 12 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)~~(D) The serious offender ~~III~~ IV 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. 2015 Supp. 38-2371, and amendments thereto. If a departure sentence is imposed, such offenders are assessed as high-risk on a risk and needs assessment.~~ Offenders in this category may be committed to a juvenile correctional facility for a minimum term of ~~nine~~ six months and up to a maximum term of ~~18~~ 12 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. 2015 Supp. 38-2371, and amendments thereto. ~~If a departure sentence is imposed, such offenders are assessed as high-risk on a risk and needs assessment.~~ 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~~ 12 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. 2015 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 misdemeanor 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 misdemeanor 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. 2015 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)(b) *Conditional Release-Violators.* If the court elects, a period of conditional release may also be ordered pursuant to K.S.A. 2015 Supp. 38-2361, and amendments thereto. The period of conditional release shall be limited to a maximum of six months and shall be subject to graduated responses. The presumption upon release shall be a return to the juvenile's home, unless the case plan developed pursuant to K.S.A. 2015 Supp. 38-2373, and amendments thereto, recommends a different reentry plan.~~

~~(1) Upon finding the juvenile violated a requirement or requirements~~

of conditional release, the court may *enter one or more of the following orders*:

~~(A)~~ Subject to the limitations in K.S.A. 2015 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)~~(A) Recommend additional conditions be added to those of the existing conditional release.

~~(ii)~~(B) Order the offender to serve a period of ~~sanctions~~ *detention* pursuant to K.S.A. 2015 Supp. 38-2361(g), and amendments thereto.

~~(iii)~~(C) Revoke or restrict the juvenile's driving privileges as described in K.S.A. 2015 Supp. 38-2361(c), and amendments thereto.

~~(C)~~(2) Discharge the offender from the custody of the secretary of corrections, release the secretary of corrections from further responsibilities in the case and enter any other appropriate orders.

~~(b)~~(c) As used in this section:

(1) ~~“Placement failure” means a juvenile offender in the custody of the 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 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.~~

~~(e) 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 secretary of corrections shall work with the community to provide on-going support and incentives for the development of additional ~~evidence-based~~ *community placements practices and programs* to



ensure that the ~~chronic offender III, escalating misdemeanor sentencing category juvenile correctional facility~~ 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. There shall be a rebuttable presumption that all offenders in the chronic offender category and offenders at least 10 years of age but less than 14 years of age in the serious offender II, III or IV category, shall be placed in the custody of the secretary for placement in a youth residential facility in lieu of placement in the juvenile correctional facility. This presumption may be rebutted by a finding on the record that the juvenile offender poses a significant risk of physical harm to another.~~

Sec. 47. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2371 is hereby amended to read as follows: 38-2371. (a) (1) Whenever a person is adjudicated as a juvenile offender *and sentenced to a juvenile correctional facility as a violent offender pursuant to K.S.A. 2015 Supp. 38-2369(a)(1), and amendments thereto*, the court upon motion of the state, shall hold a hearing to consider imposition of a departure sentence *pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, and subject to section 1, and amendments thereto*. The motion shall state that a departure is sought and the reasons and factors relied upon. The hearing shall be scheduled so that the parties have adequate time to prepare and present arguments regarding the issues of departure sentencing. The victim of a crime or the victim's family shall be notified of the right to be present at the hearing for the ~~convicted~~ *adjudicated* person by the county or district attorney. The parties may submit written arguments to the court prior to the date of the hearing and may make oral arguments before the court at the hearing. The court shall review the victim impact statement, if available. Prior to the hearing, the court shall transmit to the juvenile offender or the juvenile offender's attorney and the prosecuting attorney copies of the predispositional investigation report.

(2) At the conclusion of the hearing or within 21 days thereafter, the court shall issue findings of fact and conclusions of law regarding the issues submitted by the parties, and shall enter an appropriate order.

(3) If a factual aspect of a crime is a statutory element of the crime, or is used to determine crime severity, that aspect of the current crime of ~~conviction~~ *adjudication* may be used as an aggravating factor only if the criminal conduct constituting that aspect of the current crime of ~~conviction~~ *adjudication* is significantly different from the usual criminal conduct captured by the aspect of the crime. Subject to this provision, the nonexclusive lists of aggravating factors provided in K.S.A. 2015 Supp. 21-6815 and 21-6816, and amendments thereto, may be considered in determining whether substantial and compelling reasons exist.

(b) If the court decides to depart on its own volition *pursuant to K.S.A. 2015 Supp. 38-2369(a)(1) and section 1, and amendments thereto*, without a motion from the state, the court must notify all parties of its intent and allow reasonable time for either party to respond if they request. The notice shall state that a departure is intended by the court and the reasons and factors relied upon.

(c) In each case in which the court imposes a sentence *pursuant to K.S.A. 2015 Supp. 38-2369 and section 1, and amendments thereto*, that deviates from the presumptive sentence, the court shall make findings of fact as to the reasons for departure regardless of whether a hearing is requested.

~~(d) If the sentencing judge departs from the presumptive sentence, The judge shall state on the record at the time of sentencing and enter into the written record the substantial and compelling reasons for the departure. When a departure sentence is appropriate, the sentencing judge may depart from the matrix as provided in this section. When a sentencing judge departs in setting the duration of a presumptive term of imprisonment:~~

~~(1) The presumptive term of imprisonment set in such departure shall not total more than double the maximum duration of the presumptive imprisonment term;~~

~~(2) the court shall have no authority to reduce the minimum term of confinement as defined within the placement matrix; and~~

~~(3) the maximum term for commitment of any juvenile offender to a juvenile correctional facility is age 22 years, 6 months.~~

(e) A departure sentence may be appealed as provided in K.S.A. 2015 Supp. 38-2380, and amendments thereto.

Sec. 48. K.S.A. 2015 Supp. 38-2372 is hereby amended to read as follows: 38-2372. In any action pursuant to the revised Kansas juvenile justice code in which the juvenile is adjudicated upon a plea of guilty or trial by court or jury or upon completion of an appeal, the judge, ~~if sentencing the juvenile to incarceration,~~ shall direct that, for the purpose of computing *the juvenile's overall case length limit and, if incarcerated,* sentence and release, eligibility and conditional release dates thereunder, that such sentence is to be computed from a date, to be specifically designated by the court in the sentencing order. *If incarcerated,* such date shall be established to reflect and shall be computed as an allowance for the time which the juvenile has spent incarcerated pending the disposition of the juvenile's case. In recording the date of commencement of such sentence, the date as specifically set forth by the court shall be used as the date of sentence and all good time calculations authorized by law *and all earned time calculations authorized by law* are to be allowed on such sentence from such date as though the juvenile were actually incarcerated in a juvenile correctional facility.

Sec. 49. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2373 is hereby amended to read as follows: 38-2373. (a) *Actions by the court.* (1) When a juvenile offender has been committed to a juvenile correctional facility, the clerk of the court shall ~~forthwith~~ promptly notify the ~~commissioner~~ secretary of corrections of the commitment and provide the ~~commissioner~~ secretary with a certified copy of the complaint, the journal entry of the adjudication and sentencing. The court shall provide those items from the social file which could relate to a rehabilitative program. If the court wishes to recommend placement of the juvenile offender in a specific juvenile correctional facility, the recommendation shall be included in the sentence. After the court has received notice of the juvenile correctional facility designated as provided in subsection (b), it shall be the duty of the court or the sheriff of the county to deliver the juvenile offender to the facility at the time designated by the ~~commissioner~~ secretary.

(2) When a juvenile offender is residing in a juvenile correctional facility and is required to go back to court for any reason, the county demanding the juvenile's presence shall be responsible for transportation, detention, custody and control of such offender. In these cases, the county sheriff shall be responsible for all transportation, detention, custody and control of such offender.

(b) *Actions by the ~~commissioner~~ secretary.* (1) Within three days, excluding Saturdays, Sundays and legal holidays, after receiving notice of commitment as provided in subsection (a), the ~~commissioner~~ secretary shall notify the committing court of the facility to which the juvenile offender should be conveyed, and when to effect the immediate transfer of custody and control to the ~~juvenile justice authority~~ department of corrections. The date of admission shall be no more than five days, excluding Saturdays, Sundays and legal holidays, after the notice to the committing court. Until received at the designated facility, the continuing detention, custody, and control of and transport for a juvenile offender sentenced to a direct commitment to a juvenile correctional facility shall be the responsibility of the committing county.

(2) Except as provided by K.S.A. 2015 Supp. 38-2332, and amendments thereto, the ~~commissioner~~ secretary may make any temporary out-of-home placement the ~~commissioner~~ secretary deems appropriate pending placement of the juvenile offender in a juvenile correctional facility, and the ~~commissioner~~ secretary shall notify the court, local law enforcement agency and school district in which the juvenile will be residing if the juvenile is still required to attend a secondary school of that placement.

(c) *Transfers.* During the time a juvenile offender remains committed to a juvenile correctional facility, the ~~commissioner~~ secretary may transfer the juvenile offender from one juvenile correctional facility to another.

(d) *Case planning.* For all juveniles committed to a juvenile correc-

*tional facility pursuant to K.S.A. 38-2361(a)(11), and amendments thereto, a case plan shall be developed with input from the juvenile and the juvenile's family. For all those committed upon violation of a condition of sentence pursuant to K.S.A. 2015 Supp. 38-2368, and amendments thereto, the case plan developed with the juvenile's community supervision officer shall be revised to reflect the new disposition. The department for children and families, the local school district in which the juvenile offender will be residing and community supervision officers may also participate in the development or revision of the case plan when appropriate. The case plan shall incorporate the results of the risk and needs assessment, the programs and education to complete while in custody and shall clearly define the role of each person or agency working with the juvenile. The case plan shall include a reentry section, detailing services, education, supervision or any other elements necessary for a successful transition. The reentry section of the case plan shall also include information on reintegration of the juvenile into such juvenile's family or, if reintegration is not a viable alternative, another viable release option. If the juvenile is to be placed on conditional release pursuant to K.S.A. 2015 Supp. 38-2369, the case plan shall be developed with the community supervision officer.*

Sec. 50. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2374 is hereby amended to read as follows: 38-2374. (a) When a juvenile offender has satisfactorily completed the term of incarceration at the juvenile correctional facility to which the juvenile offender was committed or placed, the person in charge of the juvenile correctional facility shall have authority to release the juvenile offender under appropriate conditions and, *if conditional release has previously been ordered pursuant to K.S.A. 2015 Supp. 38-2361 or 38-2369, and amendments thereto*, for a specified period of time *to complete conditional release*. Prior to release from a juvenile correctional facility, ~~the commissioner~~ *secretary of corrections* shall consider any recommendations made by the juvenile offender's community ~~case management~~ *supervision officer*.

(b) At least 21 days prior to releasing a juvenile offender as provided in subsection (a), the person in charge of the juvenile correctional facility shall notify the committing court of the date and conditions upon which it is proposed the juvenile offender is to be released. The person in charge of the juvenile correctional facility shall notify the school district in which the juvenile offender will be residing if the juvenile is still required to attend a school. Such notification to the school shall include the name of the juvenile offender, address upon release, contact person with whom the juvenile offender will be residing upon release, anticipated date of release, anticipated date of enrollment in school, name and phone number of case worker, crime or crimes of adjudication if not confidential based upon other statutes, conditions of release and any other information

the commissioner deems appropriate. To ensure the educational success of the student, the community case manager or a representative from the residential facility where the juvenile offender will reside shall contact the principal of the receiving school in a timely manner to review the juvenile offender's case. If such juvenile offender's offense would have constituted an off-grid crime, a nondrug felony crime ranked at severity level 1, 2, 3, 4 or 5, or a drug felony crime ranked at severity level 1, 2 or 3, on or after July 1, 1993, or a drug felony crime ranked at severity level 4 on or after July 1, 2012, if committed by an adult, the person in charge of the juvenile correctional facility shall notify the county or district attorney of the county where the offender was adjudicated a juvenile offender of the date and conditions upon which it is proposed the juvenile offender is to be released. The county or district attorney shall give written notice at least seven days prior to the release of the juvenile offender to: (1) Any victim of the juvenile offender's crime who is alive and whose address is known to the court or, if the victim is deceased, to the victim's family if the family's address is known to the court; and (2) the local law enforcement agency. Failure to notify pursuant to this section shall not be a reason to postpone a release. Nothing in this section shall create a cause of action against the state or county or an employee of the state or county acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section.

(c) Upon receipt of the notice required by subsection (b), the court shall review the terms of ~~the~~ *any* proposed conditional release or *case plan* and may recommend modifications or additions to the terms.

(d) If, during the conditional release, the juvenile offender is not returning to the county from which committed, the person in charge of the juvenile correctional facility shall also give notice to the court of the county in which the juvenile offender is to be residing.

(e) To assure compliance with conditional release from a juvenile correctional facility, the commissioner shall have the authority to prescribe the manner in which compliance with the conditions shall be supervised. When requested by the ~~commissioner~~ *secretary of corrections*, the appropriate court may assist in supervising compliance with the conditions of release during the term of the conditional release. The ~~commissioner~~ *secretary of corrections* may require the parent of the juvenile offender to cooperate and participate with the conditional release.

(f) ~~For acts committed before July 1, 1999, the juvenile justice authority shall notify at least 45 days prior to the discharge of the juvenile offender the county or district attorney of the county where the offender was adjudicated a juvenile offender of the release of such juvenile offender, if such juvenile offender's offense would have constituted a class A, B or C felony before July 1, 1993, or an off-grid crime, a nondrug crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime ranked at severity level 1, 2 or 3, on or after July 1, 1993, or a drug crime ranked~~

at severity level 4 on or after July 1, 2012, if committed by an adult. The county or district attorney shall give written notice at least 30 days prior to the release of the juvenile offender to: (1) Any victim of the juvenile offender's crime who is alive and whose address is known to the court or, if the victim is deceased, to the victim's family if the family's address is known to the court, and (2) the local law enforcement agency. Failure to notify pursuant to this section shall not be a reason to postpone a release. Nothing in this section shall create a cause of action against the state or county or an employee of the state or county acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section.

(g) Conditional release programs shall include, but not be limited to, the treatment options of aftercare services.

Sec. 51. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2375 is hereby amended to read as follows: 38-2375. If it is alleged that a juvenile offender who has been conditionally released from a juvenile correctional facility has failed to obey the specified conditions of release *for the third or subsequent time*, ~~any~~ the officer assigned to supervise compliance with the conditions of release or, upon referral from such officer, the county or district attorney may file a report with the committing court or the court of the county in which the juvenile offender resides describing the alleged violation *and the juvenile's history of violations*. The court shall provide copies of the report to the parties to the proceedings. The court, upon the court's own motion or the county or district attorney, shall set the matter for hearing. The movant shall provide notice of the motion and hearing to each party to the proceeding and the current custodian and placement of the juvenile offender. If the court finds that a condition of release has been violated, the court may modify or impose additional conditions of release that the court considers appropriate ~~or order that the juvenile offender be returned to the juvenile correctional facility to serve the conditional release revocation incarceration and aftercare term set by the court pursuant to the placement matrix as provided in pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto.~~

Sec. 52. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2376 is hereby amended to read as follows: 38-2376. (a) When a juvenile offender has reached the age of 23 years, *has maximized the overall case length limit*, or has been convicted as an adult while serving a term of incarceration at a juvenile correctional facility, or has completed the prescribed terms of incarceration at a juvenile correctional facility, together with any conditional release following the program, the juvenile shall be discharged by the ~~commissioner~~ *secretary of corrections* from any further obligation under the commitment ~~unless the juvenile was sentenced pursuant to an extended jurisdiction juvenile prosecution upon court order and the commissioner transfers the juvenile to the custody of the secretary of correc-~~

~~tions~~ unless the juvenile was sentenced pursuant to an extended jurisdiction juvenile prosecution upon court order. The discharge shall operate as a full and complete release from any obligations imposed on the juvenile offender arising from the offense for which the juvenile offender was committed.

(b) At least 45 days prior to the discharge of the juvenile offender, the juvenile justice authority shall notify the court and the county or district attorney of the county where the offender was adjudicated a juvenile offender of the pending discharge of such juvenile offender, the offense would have constituted a class A, B or C felony before July 1, 1993, or an off-grid crime, a nondrug crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime ranked at severity level 1, 2 or 3, on or after July 1, 1993, or a drug crime ranked at severity level 4 on or after July 1, 2012, if committed by an adult. The county or district attorney shall give written notice at least 30 days prior to the discharge of the juvenile offender pursuant to K.S.A. 2015 Supp. 38-2379, and amendments thereto.

Sec. 53. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2377 is hereby amended to read as follows: 38-2377. (a) ~~The commissioner secretary~~ shall notify the county or district attorney, the court, the local law enforcement agency and the school district in which the juvenile offender will be residing of such pending release at least 45 days before release if the juvenile is still required to attend school, if the juvenile offender has committed an act prior to July 1, 1999, which, if committed by a person 18 years of age or over, would have constituted: (1) A class A or B felony, before July 1, 1993; or (2) an off-grid crime, a nondrug crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime ranked at severity level 1, 2 or 3, if the offense was committed on or after July 1, 1993, and, if such juvenile is to be released. The county or district attorney shall give written notice at least 30 days prior to discharge of the juvenile offender pursuant to K.S.A. 2015 Supp. 38-2379, and amendments thereto. The county attorney, district attorney or the court on its own motion may file a motion with the court for a hearing to determine if the juvenile offender should be retained in the custody of the commissioner, pursuant to K.S.A. 2015 Supp. 38-2376, and amendments thereto placed on conditional release if not previously ordered by the court, subject to the overall case length limit. The court shall fix a time and place for hearing and shall notify each party of the time and place.

(b) Following the hearing, if the court orders ~~the commissioner to retain custody~~ a period of conditional release, the juvenile offender shall not be held in a juvenile correctional facility supervised for longer than the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which the juvenile offender has been adjudicated to have committed six months of conditional release and the overall case length limit.

~~(e) As used in this section, “maximum term of imprisonment” means the greatest maximum sentence authorized by computing terms as consecutive when required by K.S.A. 2015 Supp. 21-6606, and amendments thereto.~~

Sec. 54. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2389 is hereby amended to read as follows: 38-2389. (a) *Findings and purpose.* The following findings and declaration of purpose apply to this section.

(1) The legislature finds that personal and familial circumstances may contribute to the commission of offenses by juveniles who represent a minimal threat to public safety and that in such cases it would further the interests of society and the juvenile to take an approach to adjudication that combines less formal procedures, appropriate disciplinary sanctions for misconduct and the provision of necessary services.

(2) It is the purpose of this section to provide prosecutors with an alternative means of adjudication for juvenile offenders who present a minimal threat to public safety and both the juvenile and society would benefit from such approach.

(b) *Designation.* A county or district attorney with jurisdiction over the offense who believes that proceedings under this section are appropriate may, in such county or district attorney’s discretion, designate ~~an~~ *any* alleged juvenile offender for adjudication under this section and not seek application of a placement within the placement matrix pursuant to K.S.A. 2015 Supp. 38-2369, and amendments thereto, if the alleged juvenile offender’s act, if committed by an adult, would constitute a misdemeanor ~~if~~ *has fewer than two prior adjudications.*

(1) The county or district attorney shall make such designation in the original complaint or by written notice filed with the court and served on the juvenile, the juvenile’s counsel and the juvenile’s parent or legal guardian within 14 days after the filing of the complaint.

(2) The filing of a written application for ~~diversion~~ *immediate intervention* under K.S.A. 2015 Supp. 38-2346, and amendments thereto, shall toll the running of the 14-day period and shall resume upon the issuance of a written denial of diversion.

(3) *If the county or district attorney makes such designation, the juvenile may be referred to an immediate intervention program established pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto, and in compliance with the standards and procedures developed pursuant to section 7, and amendments thereto.*

(c) *Exceptions.* Except as provided in this subsection, the provisions of the revised Kansas juvenile justice code, K.S.A. 2015 Supp. 38-2301 et seq., and amendments thereto, shall apply in any adjudication under this section.

(1) If during the proceedings the court determines that there is probable cause to believe that the juvenile is a child in need of care as defined



by K.S.A. 2015 Supp. 38-2202, and amendments thereto, the court shall refer the matter to the county or district attorney, who shall file a petition as provided in K.S.A. 2015 Supp. 38-2234, and amendments thereto, and refer the family to the Kansas department for children and families for services.

~~(A) If the court presiding over the proceeding under this section finds, in accordance with K.S.A. 2015 Supp. 38-2334 and 38-2335, and amendments thereto, that the juvenile should be removed from the home, the court may place the juvenile in the temporary custody of the secretary for children and families or any person, other than the child's parent, willing to accept temporary custody.~~

~~(B) If the child in need of care case is presided over by a different judge, the county or district attorney shall notify the court presiding over the proceedings under this section of pertinent orders entered in the child in need of care case.~~

(2) Notwithstanding any other provision of law, no juvenile shall be committed to a juvenile correctional facility pursuant to ~~subsection (a)(12) of~~ K.S.A. 2015 Supp. 38-2361(a)(11), and amendments thereto, for an offense adjudicated under this section or for the violation of a term or condition of the disposition for such an offense.

(3) Notwithstanding any other provision of law, no adjudication under this section or violation of the terms and conditions of the disposition; ~~including a placement failure,~~ shall be used against the juvenile in a proceeding on a subsequent offense committed as a juvenile or as an adult. For purposes of this section, "used against the juvenile" includes, but is not limited to, establishing an element of a subsequent offense, raising the severity level of a subsequent offense or enhancing the sentence for a subsequent offense.

(4) Upon completion of the case and the termination of the court's jurisdiction, the court shall order the adjudication expunged, and the provisions of ~~subsections (a), (b), (c), (d), (e), (i), (k) and (l) of~~ K.S.A. 2015 Supp. 38-2312(a), (b), (c), (d), (e), (i), (k) and (l), and amendments thereto, shall not apply to such expungement.

(5) Notwithstanding any other provision of law, a juvenile shall not be required to register as an offender under the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, as a result of adjudication under this section.

(6) The provisions of K.S.A. 2015 Supp. 38-2309 and 38-2310, and amendments thereto, shall not apply to proceedings under this section.

(7) The provisions of K.S.A. 2015 Supp. 38-2347, and amendments thereto, shall not apply to proceedings under this section.

(8) The provisions of ~~subsection (g)(1) of~~ K.S.A. 2015 Supp. 38-2304(g)(1), and amendments thereto, shall not apply to proceedings under this section.

(9) The trial of offenses under this section shall be to the court and

the right to a trial by jury under K.S.A. 2015 Supp. 38-2357, and amendments thereto, shall not apply.

(d) *Withdrawal*. At any time prior to the beginning of a hearing at which the court may enter an order adjudicating the child as a juvenile offender, the county or district attorney may withdraw the designation for proceedings under this section by providing notice to the court, the juvenile, the juvenile's attorney and guardian ad litem, if any, and the juvenile's parent or legal guardian. Upon withdrawal of the designation, this section shall no longer apply and the case shall proceed and the court shall grant a continuance upon request.

(e) *Appeal*. An adjudication under this section is an appealable order pursuant to K.S.A. 2015 Supp. 38-2380, and amendments thereto.

(f) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

Sec. 55. K.S.A. 2015 Supp. 65-5603 is hereby amended to read as follows: 65-5603. (a) The privilege established by K.S.A. 65-5602, and amendments thereto, shall not extend to:

(1) Any communication relevant to an issue in proceedings to involuntarily commit to treatment a patient for mental illness, alcoholism or drug dependency if the treatment personnel in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;

(2) an order for examination of the mental, alcoholic, drug dependency or emotional condition of the patient which is entered by a judge, with respect to the particular purpose for which the examination is ordered;

(3) any proceeding in which the patient relies upon any of the aforementioned conditions as an element of the patient's claim or defense, or, after the patient's death, in any proceeding in which any party relies upon any of the patient's conditions as an element of a claim or defense;

(4) any communication which forms the substance of information which the treatment personnel or the patient is required by law to report to a public official or to be recorded in a public office, unless the statute requiring the report or record specifically provides that the information shall not be disclosed;

(5) any information necessary for the emergency treatment of a patient or former patient if the head of the treatment facility at which the patient is being treated or was treated states in writing the reasons for disclosure of the communication and makes such statement a part of the treatment or medical record of the patient;

(6) information relevant to protect a person who has been threatened with substantial physical harm by a patient during the course of treatment, when such person has been specifically identified by the patient, the treatment personnel believes there is substantial likelihood that the patient will act on such threat in the reasonable foreseeable future and the head

of the treatment facility has concluded that notification should be given. The patient shall be notified that such information has been communicated;

(7) any information from a state psychiatric hospital to appropriate administrative staff of the department of corrections whenever patients have been administratively transferred to a state psychiatric hospital pursuant to the provisions of K.S.A. 75-5209, and amendments thereto;

(8) any information to the patient or former patient, except that the head of the treatment facility at which the patient is being treated or was treated may refuse to disclose portions of such records if the head of the treatment facility states in writing that such disclosure will be injurious to the welfare of the patient or former patient;

(9) any information to any state or national accreditation, certification or licensing authority, or scholarly investigator, but the head of the treatment facility shall require, before such disclosure is made, a pledge that the name of any patient or former patient shall not be disclosed to any person not otherwise authorized by law to receive such information;

(10) any information to the state protection and advocacy system which concerns individuals who reside in a treatment facility and which is required by federal law and federal rules and regulations to be available pursuant to a federal grant-in-aid program;

(11) any information relevant to the collection of a bill for professional services rendered by a treatment facility;

(12) any information sought by a coroner serving under the laws of Kansas when such information is material to an investigation or proceeding conducted by the coroner in the performance of such coroner's official duties. Information obtained by a coroner under this provision shall be used for official purposes only and shall not be made public unless admitted as evidence by a court or for purposes of performing the coroner's statutory duties;

(13) any communication and information by and between or among treatment facilities, correctional institutions, jails, juvenile detention facilities or juvenile correctional facilities regarding a proposed patient, patient or former patient for purposes of promoting continuity of care by and between treatment facilities, correctional institutions, jails, juvenile detention facilities or juvenile correctional facilities; the proposed patient, patient, or former patient's consent shall not be necessary to share evaluation and treatment records by and between or among treatment facilities, correctional institutions, jails, juvenile detention facilities or juvenile correctional facilities regarding a proposed patient, patient or former patient;

(14) the name, date of birth, date of death, name of any next of kin and place of residence of a deceased former patient when that information is sought as part of a genealogical study;

(15) any information concerning a patient or former patient who is a

juvenile offender in the custody of the juvenile justice authority when the commissioner of juvenile justice, or the commissioner's designee, requests such information; or

(16) information limited to whether a person is or has been a patient of any treatment facility within the last six months, such person having been lawfully detained by a law enforcement officer upon reasonable suspicion that such person is committing, has committed or is about to commit a misdemeanor or felony, if such law enforcement officer has reasonable suspicion that such person is suffering from mental illness and such law enforcement officer has a reasonable belief that such person may benefit from treatment at a treatment facility rather than being placed in a correctional institution, jail, juvenile correctional facility or juvenile detention facility. Any communication and information obtained by any law enforcement officer regarding such person from such treatment facility shall not be disclosed except as provided by this section.

(b) As used in this subsection:

(1) "Correctional institution" means the same as prescribed in K.S.A. 75-5202, and amendments thereto;

(2) "jail" means the same as prescribed in K.S.A. 2015 Supp. ~~38-3202~~ 38-2302, and amendments thereto;

(3) "juvenile correctional facility" means the same as prescribed in K.S.A. 2015 Supp. ~~38-3202~~ 38-2302, and amendments thereto;

(4) "juvenile detention facility" means the same as prescribed in K.S.A. 2015 Supp. ~~38-3202~~ 38-2302, and amendments thereto;

(5) "law enforcement officer" means the same as prescribed in K.S.A. 22-2202, and amendments thereto; and

(6) "mental illness" means mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, the welfare of others or the welfare of the community.

(c) The treatment personnel shall not disclose any information subject to subsection (a)(3) unless a judge has entered an order finding that the patient has made such patient's condition an issue of the patient's claim or defense. The order shall indicate the parties to whom otherwise confidential information must be disclosed.

Sec. 56. On and after July 1, 2017, K.S.A. 2015 Supp. 72-1113 is hereby amended to read as follows: 72-1113. (a) Each board of education shall designate one or more employees who shall report to the secretary for children and families, or a designee thereof, or to the appropriate county or district attorney pursuant to an agreement as provided in this section, all cases of children who are less than 13 years of age and are not attending school as required by law, and to the appropriate county or district attorney, or a designee thereof, all cases of children who are 13 or more years of age but less than 18 years of age and are not attending school as required by law. The designation shall be made no later than

September 1 of each school year and shall be certified no later than 10 days thereafter by the board of education to the secretary for children and families, or the designee thereof, to the county or district attorney, or the designee thereof, and to the commissioner of education. The commissioner of education shall compile and maintain a list of the designated employees of each board of education. The local area office of the Kansas department for children and families may enter into an agreement with the appropriate county or district attorney to provide that the designated employees of such board of education shall make the report as provided in this section for all cases of children who are less than 13 years of age and are not attending school as provided by law to the county or district attorney in lieu of the secretary, or the secretary's designee. If such agreement is made, the county or district attorney shall carry out all duties as otherwise provided by this subsection conferred on the secretary or the secretary's designee. A copy of such agreement shall be provided to the director of such area office of the Kansas department for children and families and to the school districts affected by the agreement.

(b) Whenever a child is required by law to attend school, and the child is not enrolled in a public or nonpublic school, the child shall be considered to be not attending school as required by law and a report thereof shall be made in accordance with the provisions of subsection (a) by a designated employee of the board of education of the school district in which the child resides. The provisions of this subsection are subject to the provisions of subsection (d).

(c) (1) Whenever a child is required by law to attend school and is enrolled in school, and the child is inexcusably absent therefrom on either three consecutive school days or five school days in any semester or seven school days in any school year, whichever of the foregoing occurs first, the child shall be considered to be not attending school as required by law. A child is inexcusably absent from school if the child is absent therefrom all or a significant part of a school day without a valid excuse acceptable to the school employee designated by the board of education to have responsibility for the school attendance of such child.

(2) Each board of education shall adopt rules for determination of valid excuse for absence from school and for determination of what shall constitute a "significant part of a school day" for the purpose of this section.

(3) Each board of education shall designate one or more employees, who shall each be responsible for determining the acceptability and validity of offered excuses for absence from school of specified children, so that a designee is responsible for making such determination for each child enrolled in school.

(4) Whenever a determination is made in accordance with the provisions of this subsection that a child is not attending school as required by law, the designated employee who is responsible for such determina-

tion shall make a report thereof in accordance with the provisions of subsection (a), *provided that the report would not violate the terms of the memorandum of understanding approved by the superintendent of the school district pursuant to K.S.A. 72-89b03(i), and amendments thereto.*

(5) The provisions of this subsection are subject to the provisions of subsection (d).

(d) (1) Prior to making any report under this section that a child is not attending school as required by law, the designated employee of the board of education shall serve written notice thereof, by personal delivery or by first class mail, upon a parent or person acting as parent of the child. The notice shall inform the parent or person acting as parent that continued failure of the child to attend school without a valid excuse will result in a report being made to the secretary for children and families or to the county or district attorney. Upon failure, on the school day next succeeding personal delivery of the notice or within three school days after the notice was mailed, of attendance at school by the child or of an acceptable response, as determined by the designated employee, to the notice by a parent or person acting as parent of the child, the designated employee shall make a report thereof in accordance with the provisions of subsection (a). The designated employee shall submit with the report a certificate verifying the manner in which notice was provided to the parent or person acting as parent.

(2) Whenever a law enforcement officer assumes temporary custody of a child who is found away from home or school without a valid excuse during the hours school is actually in session, and the law enforcement officer delivers the child to the school in which the child is enrolled or to a location designated by the school in which the child is enrolled to address truancy issues, the designated employee of the board of education shall serve notice thereof upon a parent or person acting as parent of the child. The notice may be oral or written and shall inform the parent or person acting as parent of the child that the child was absent from school without a valid excuse and was delivered to school by a law enforcement officer.

(e) Whenever the secretary for children and families receives a report required under this section, the secretary shall investigate the matter. If, during the investigation, the secretary determines that the reported child is not attending school as required by law, the secretary shall institute proceedings under the revised Kansas code for care of children. If, during the investigation, the secretary determines that a criminal prosecution should be considered, the secretary shall make a report of the case to the appropriate law enforcement agency.

(f) Whenever a county or district attorney receives a report required under this section, the county or district attorney shall investigate the matter. If, during the investigation, the county or district attorney determines that the reported child is not attending school as required by law,

the county or district attorney shall prepare and file a petition alleging that the child is a child in need of care. If, during the investigation, the county or district attorney determines that a criminal prosecution is necessary, the county or district attorney shall commence such action.

(g) As used in this section, “board of education” means the board of education of a school district or the governing authority of a nonpublic school. The provisions of this act shall apply to both public and nonpublic schools.

Sec. 57. On and after July 1, 2017, K.S.A. 2015 Supp. 72-8222 is hereby amended to read as follows: 72-8222. (a) The board of education of any school district or the board of trustees of any community college may employ school security officers, and may designate any one or more of such school security officers as a campus police officer, to aid and supplement law enforcement agencies of the state and of the city and county in which the school district or community college is located.

(b) The protective function of school security officers shall extend to all property of the school district or community college and the protection of students, teachers and other employees together with the property of such persons on or in any school or community college property or areas adjacent thereto, or while attending or located at the site of any school or community college-sponsored function. While engaged in the protective functions specified in this section, each school security officer shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county in which there is located any part of the territory of the school district or community college.

(c) The protective function of campus police officers shall extend to all property of the school district or community college and the protection of students, teachers and other employees together with the property of such persons on or in any school or community college property or areas adjacent thereto, or while attending or located at the site of any school or community college-sponsored function. While engaged in the protective functions specified in this section, each campus police officer shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county in which there is located any part of the territory of the school district or community college, *provided that such officer does not violate the memorandum of understanding approved by the superintendent of the school district pursuant to K.S.A. 72-89b03(i), and amendments thereto.*

(d) Campus police officers shall have the power and authority of law enforcement officers:

(1) On property owned, occupied or operated by the school district or community college or at the site of a function sponsored by the school district or community college;

(2) on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (d)(1);

(3) within the city or county where property described in subsection (d)(1) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved;

(4) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (d)(1) or (d)(2) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation;

(5) when in fresh pursuit of a person; and

(6) when transporting persons in custody to an appropriate facility, wherever it may be located.

(e) In addition to enforcement of state law, county resolutions and city ordinances, campus police officers shall enforce rules and regulations and rules and policies of the board of trustees or school board, whether or not violation thereof constitutes a criminal offense. While on duty, campus police officers shall wear and display publicly a badge of office. No such badge shall be required to be worn by any plain clothes investigator or departmental administrator, but any such officer shall present proper credentials and identification when required in the performance of such officer's duties. In performance of any of the powers, duties and functions authorized by this section, K.S.A. 22-2401a, and amendments thereto, or any other law, campus police officers shall have the same rights, protections and immunities afforded other law enforcement officers.

(f) The board of education of each school district shall adopt a policy providing for notification of a student's parents or guardians whenever the student is taken into custody by a campus police officer.

Sec. 58. On and after July 1, 2017, K.S.A. 2015 Supp. 72-89b03 is hereby amended to read as follows: 72-89b03. (a) If a school employee has information that a pupil is a pupil to whom the provisions of this subsection apply, the school employee shall report such information and identify the pupil to the superintendent of schools. The superintendent of schools shall investigate the matter and, upon determining that the



identified pupil is a pupil to whom the provisions of this subsection apply, shall provide the reported information and identify the pupil to all school employees who are directly involved or likely to be directly involved in teaching or providing other school related services to the pupil. The provisions of this subsection apply to:

(1) Any pupil who has been expelled for the reason provided by ~~subsection (e) of K.S.A. 72-8901(c)~~, and amendments thereto, for conduct which endangers the safety of others;

(2) any pupil who has been expelled for the reason provided by ~~subsection (d) of K.S.A. 72-8901(d)~~, and amendments thereto;

(3) any pupil who has been expelled under a policy adopted pursuant to K.S.A. 72-89a02, and amendments thereto;

(4) any pupil who has been adjudged to be a juvenile offender and whose offense, if committed by an adult, would constitute a felony under the laws of Kansas or the state where the offense was committed, except any pupil adjudicated as a juvenile offender for a felony theft offense involving no direct threat to human life; and

(5) any pupil who has been tried and convicted as an adult of any felony, except any pupil convicted of a felony theft crime involving no direct threat to human life.

A school employee and the superintendent of schools shall not be required to report information concerning a pupil specified in this subsection if the expulsion, adjudication as a juvenile offender or conviction of a felony occurred more than 365 days prior to the school employee's report to the superintendent of schools.

(b) Each board of education shall adopt a policy that includes:

(1) A requirement that an immediate report be made to the appropriate state or local law enforcement agency by or on behalf of any school employee who knows or has reason to believe that an act has been committed at school, on school property, or at a school supervised activity and that the act involved conduct which constitutes the commission of a felony or misdemeanor or which involves the possession, use or disposal of explosives, firearms or other weapons, *provided that the report would not violate the terms of the memorandum of understanding approved by the school employee's school district pursuant to subsection (i)*; and

(2) the procedures for making such a report.

(c) School employees shall not be subject to the provisions of ~~subsection (b) of K.S.A. 72-89b04(b)~~, and amendments thereto, if:

(1) They follow the procedures from a policy adopted pursuant to the provisions of subsection (b); or

(2) their board of education fails to adopt such policy.

(d) Each board of education shall annually compile and report to the state board of education at least the following information relating to school safety and security: The types and frequency of criminal acts that are required to be reported pursuant to the provisions of subsection (b),

*arrests and referrals to law enforcement or juvenile intake and assessment services made in connection to the criminal act, disaggregated by occurrences at school, on school property and at school supervised activities. The data must include an analysis according to race, gender and any other relevant demographic information.* The report shall be incorporated into and become part of the current report required under the quality performance accreditation system.

(e) Each board of education shall make available to pupils and their parents, to school employees and, upon request, to others, district policies and reports concerning school safety and security, except that the provisions of this subsection shall not apply to reports made by a superintendent of schools and school employees pursuant to subsection (a).

(f) Nothing in this section shall be construed or operate in any manner so as to prevent any school employee from reporting criminal acts to school officials and to appropriate state and local law enforcement agencies.

(g) The state board of education shall extract the information relating to school safety and security from the quality performance accreditation report and transmit the information to the governor, the legislature, the attorney general, the secretary of health and environment, the secretary for children and families and the commissioner of juvenile justice.

(h) No board of education, member of any such board, superintendent of schools or school employee shall be liable for damages in a civil action resulting from a person's good faith acts or omissions in complying with the requirements or provisions of the Kansas school safety and security act.

(i) *The state board of education shall require that the superintendent of schools in each school district or the superintendent's designee develop, approve and submit to the state board of education a memorandum of understanding developed in collaboration with relevant stakeholders, including law enforcement agencies, the courts and the district and county attorneys, establishing clear guidelines for how and when school-based behaviors are referred to law enforcement or the juvenile justice system with the goal of reducing such referrals and protecting public safety. The state board of education shall provide a report annually to the department of corrections and to the office of judicial administration compiling school district compliance and summarizing the content of each memorandum of understanding.*

Sec. 59. On and after July 1, 2017, K.S.A. 2015 Supp. 72-89c02 is hereby amended to read as follows: 72-89c02. (a) Whenever a pupil who has attained the age of 13 years has been found in possession of a weapon or illegal drug at school, upon school property or at a school supervised activity or has engaged in an act or behavior, committed at school, upon school property, or at a school-supervised activity which resulted in, or

was substantially likely to have resulted in, serious bodily injury to others, the chief administrative officer of the school shall make a report of the pupil's act to the appropriate law enforcement agency, *provided that the report would not violate the terms of the memorandum of understanding approved by the superintendent of the school district pursuant to K.S.A. 72-89b03(i), and amendments thereto.* The report shall be given as soon as practicable, but not to exceed 10 days from the date of the pupil's act, excluding holidays and weekends, to the appropriate law enforcement agency. Upon receipt of the report, the law enforcement agency shall investigate the matter and give written notice to the division of the act committed by the pupil. The notice shall be given to the division of vehicles by the law enforcement agency as soon as practicable but not to exceed 10 days, excluding holidays and weekends, after receipt of the report and shall include the pupil's name, address, date of birth, driver's license number, if available, and a description of the act committed by the pupil. A copy of the notice also shall be given to the pupil and to the parent or guardian of the pupil.

(b) If timely notice is not given to the appropriate law enforcement agency or to the division as specified in subsection (a), the division of vehicles shall not suspend the pupil's driver's license or privilege to operate a motor vehicle on the streets and highways of this state.

(c) If timely notice is given to the appropriate law enforcement agency and the division as specified in subsection (a), the division of vehicles immediately shall suspend the pupil's driver's license or privilege to operate a motor vehicle on the streets and highways of this state. The duration of the suspension shall be for a period of one year. Upon expiration of the period of suspension, the pupil may apply to the division for return of the license. If the license has expired, the pupil 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 pupil's privilege to operate a motor vehicle is in effect. If the pupil does not have a driver's license, the pupil's driving privileges shall be revoked. If timely notice is given to the appropriate law enforcement agency and the division as required by subsection (a), no Kansas driver's license shall be issued to a pupil whose driving privileges have been revoked pursuant to this subsection for a period of one year:

(1) Immediately following the date of receipt by the division of notification from a law enforcement agency containing the description of the pupil's act, if the pupil is eligible to apply for a driver's license; or

(2) after the date the pupil will be eligible to apply for a driver's license, if the pupil is not eligible to apply for a driver's license on the date of receipt of the notification.

(d) If the pupil's driver's license or driving privilege has been revoked, suspended or canceled for another cause, the suspension or revocation

required by this section shall apply consecutively to the previous revocation, suspension or cancellation.

(e) Upon suspension or revocation of a pupil's driver's license or driving privilege to operate a motor vehicle as provided in this section, the division of vehicles shall immediately notify the pupil in writing. If the pupil makes a written request for hearing within 30 days after such notice of suspension or revocation, the division of vehicles shall afford the pupil an opportunity for a hearing as provided by K.S.A. 8-255, and amendments thereto. The scope of the hearing shall be limited to determination of whether or not: (1) Notice was given to the appropriate law enforcement agency and the division within the time specified in subsection (a); or (2) there are reasonable grounds to believe the pupil was in possession of a weapon or illegal drug at school, upon school property, or at a school-supervised activity or was engaged in behavior at school, upon school property, or at a school-supervised activity, which resulted in, or was substantially likely to have resulted in, serious bodily injury to others.

(f) For the purposes of this section, the term driver's license includes, in addition to any commercial driver's license and any class A, B, C or M driver's license, any restricted license issued under K.S.A. 8-237, and amendments thereto, any instruction permit issued under K.S.A. 8-239, and amendments thereto, and any farm permit issued under K.S.A. 8-296, and amendments thereto.

Sec. 60. K.S.A. 2015 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 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 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 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 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 K.S.A. 46-137a(b) and (d), and amend-

ments 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 K.S.A. 76-12a01(b) or K.S.A. 38-2302~~(f)~~(k), 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)~~(k), 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. 61. K.S.A. 75-3722, as amended by section 111 of 2016 House Substitute for Senate Bill No. 161, is hereby amended to read as follows: 75-3722. (a) An allotment system will be applicable to the expenditure of the resources of any state agency, under rules and regulations established as provided in K.S.A. 75-3706, and amendments thereto, only if in the opinion of the secretary of administration on the advice of the director of the budget, the use of an allotment plan is necessary or beneficial to the state. In making this determination the secretary of administration shall take into consideration all pertinent factors including:

- (1) Available resources;
- (2) current spending rates;
- (3) work loads;
- (4) new activities, especially any proposed activities not covered in the agency's request to the governor and the legislature for appropriations;
- (5) the minimum current needs of each agency;
- (6) requests for deficiency appropriations in prior fiscal years;
- (7) unexpended and unencumbered balances; and
- (8) revenue collection rates and prospects.

(b) Whenever for any fiscal year it appears that the resources of the general fund or any special revenue fund are likely to be insufficient to cover the appropriations made against such general fund or special revenue fund, the secretary of administration, on the advice of the director of the budget, shall, in such manner as he or she may determine, inaugurate the allotment system so as to assure that expenditures for any particular fiscal year will not exceed the available resources of the general fund or any special revenue fund for that fiscal year.

(c) (1) The allotment system shall not apply to the legislature or to the courts or their officers and employees, *or to payments made from the juvenile justice improvement fund, established in section 13, and amendments thereto, for the development and implementation of evidence-based community programs and practices for juvenile offenders and their families.* During the fiscal year ending June 30, 2017, the allotment system provided by this section shall not apply to any item of appropriation for employer contributions for the state of Kansas and participating employers who are eligible employers as specified in K.S.A. 74-4931(1), (2) and

(3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto.

(2) Agencies affected by decisions of the secretary of administration under this section shall be notified in writing at least 30 days before such decisions may become effective and any affected agency may, by written request addressed to the governor within 10 days after such notice, ask for a review of the decision by the finance council. The finance council shall hear appeals and render a decision within 20 days after the governor receives requests for such hearings.

Sec. 62. K.S.A. 75-6704 is hereby amended to read as follows: 75-6704. (a) The director of the budget shall continuously monitor the status of the state general fund with regard to estimated and actual revenues and approved and actual expenditures and demand transfers. Periodically, the director of the budget shall estimate the amount of the unencumbered ending balance of moneys in the state general fund for the current fiscal year and the total amount of anticipated expenditures, demand transfers and encumbrances of moneys in the state general fund for the current fiscal year. If the amount of such unencumbered ending balance in the state general fund is less than \$100,000,000, the director of the budget shall certify to the governor the difference between \$100,000,000 and the amount of such unencumbered ending balance in the state general fund, after adjusting the estimates of the amounts of such demand transfers with regard to new estimates of revenues to the state general fund, where appropriate.

(b) Upon receipt of any such certification and subject to approval of the state finance council acting on this matter which is hereby declared to be a matter of legislative delegation and subject to the guidelines prescribed by ~~subsection (c) of K.S.A. 75-3711(c)~~, and amendments thereto, the governor may issue an executive order reducing, by applying a percentage reduction determined by the governor in accordance with this section: (1) The amount authorized to be expended from each appropriation from the state general fund for the current fiscal year, other than any item of appropriation for debt service for payments pursuant to contractual bond obligations or any item of appropriation for employer contributions for the employers who are eligible employers as specified in ~~subsections (1), (2) and (3) of K.S.A. 74-4931(1), (2) and (3)~~, and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto, *or for payments made from the juvenile justice improvement fund for the development and implementation of evidence-based community programs and practices for juvenile offender and their families*; and (2) the amount of each demand transfer from the state general fund for the current fiscal year, other than any demand transfer to the school district capital improvements fund for

distribution to school districts pursuant to K.S.A. 75-2319, and amendments thereto.

(c) The reduction imposed by an executive order issued under this section shall be determined by the governor and may be equal to or less than the amount certified under subsection (a). Except as otherwise specifically provided by this section, the percentage reduction applied under subsection (b) shall be the same for each item of appropriation and each demand transfer and shall be imposed equally on all such items of appropriation and demand transfers without exception. No such percentage reduction and no provisions of any such executive order under this section shall apply or be construed to reduce any item of appropriation for debt service for payments pursuant to contractual bond obligations or any item of appropriation for employer contributions for the employers who are eligible employers as specified in ~~subsections (1), (2) and (3) of~~ K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto, or any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319, and amendments thereto. The provisions of such executive order shall be effective for all state agencies of the executive, legislative and judicial branches of state government.

(d) If the governor issues an executive order under this section, the director of accounts and reports shall not issue any warrant for the payment of moneys in the state general fund or make any demand transfer of moneys in the state general fund for any state agency unless such warrant or demand transfer is in accordance with such executive order and such warrant or demand transfer does not exceed the amount of money permitted to be expended or transferred from the state general fund.

(e) Nothing in this section shall be construed to: (1) Require the governor to issue an executive order under this section upon receipt of any such certification by the director of the budget; or (2) restrict the number of times that the director of the budget may make a certification under this section or that the governor may issue an executive order under this section.

Sec. 63. On and after January 1, 2017, K.S.A. 2015 Supp. 75-7023 is hereby amended to read as follows: 75-7023. (a) ~~The supreme court through administrative orders shall provide for the establishment of a juvenile intake and assessment system and for the establishment and operation of juvenile intake and assessment programs in each judicial district. On and after July 1, 1997, The secretary for children and families may contract with the commissioner of juvenile justice secretary of corrections to provide for the juvenile intake and assessment system and programs for children in need of care. Except as provided further, on and~~

~~after July 1, 1997, the commissioner of juvenile justice~~ *the secretary of corrections* shall promulgate rules and regulations for the juvenile intake and assessment system and programs concerning juvenile offenders. If ~~the commissioner~~ *secretary* contracts with the office of judicial administration to administer the juvenile intake and assessment system and programs concerning juvenile offenders, the supreme court administrative orders shall be in force until such contract ends and the rules and regulations concerning juvenile intake and assessment system and programs concerning juvenile offenders have been adopted.

(b) No records, reports and information obtained as a part of the juvenile intake and assessment process may be admitted into evidence in any proceeding and may not be used in a child in need of care proceeding except for diagnostic and referral purposes and by the court in considering dispositional alternatives. However, if the records, reports or information are in regard to abuse or neglect, which is required to be reported under K.S.A. 2015 Supp. 38-2223, and amendments thereto, such records, reports or information may then be used for any purpose in a child in need of care proceeding pursuant to the revised Kansas code for care of children.

(c) Upon a juvenile being taken into custody pursuant to K.S.A. 2015 Supp. 38-2330, and amendments thereto, a juvenile intake and assessment worker shall complete the intake and assessment process, *making release and referral determinations* as required by supreme court administrative order or district court rule ~~prior to July 1, 1997~~, or except as provided above rules and regulations established by the ~~commissioner of juvenile justice on and after July 1, 1997~~ *secretary of corrections*.

(d) Except as provided in subsection (g) and in addition to any other information required by the supreme court administrative order, the ~~secretary for children and families, the commissioner~~ *secretary of corrections* or by the district court of such district, the juvenile intake and assessment worker shall collect the following information *either in person or over two-way audio or audio-visual communication*:

(1) *The results of a standardized detention risk assessment tool pursuant to K.S.A. 2015 Supp. 38-2302, and amendments thereto, if detention is being considered for the juvenile, such as the problem oriented screening instrument for teens;*

(2) criminal history, including indications of criminal gang involvement;

(3) abuse history;

(4) substance abuse history;

(5) history of prior community services used or treatments provided;

(6) educational history;

(7) medical history; ~~and~~

(8) family history; *and*

(9) *the results of other assessment instruments as approved by the secretary.*

(e) After completion of the intake and assessment process for such child, the intake and assessment worker ~~may~~ *shall make both a release and a referral determination:*

(1) Release the child to the custody of the child's parent, other legal guardian or another appropriate adult ~~if the intake and assessment worker believes that it would be in the best interest of the child and it would not be harmful to the child to do so.~~

(2) Conditionally release the child to the child's parent, other legal guardian or another appropriate adult if the intake and assessment worker believes that if the conditions are met, it would be in the child's best interest to release the child to such child's parent, other legal guardian or another appropriate adult; and the intake and assessment worker has reason to believe that it might be harmful to the child to release the child to such child's parents, other legal guardian or another appropriate adult without imposing the conditions. The conditions may include, but not be limited to *the alternatives listed in K.S.A. 2015 Supp. 38-2331(b), and amendments thereto, and the following:*

(A) Participation of the child in counseling;

(B) participation of members of the child's family in counseling;

(C) participation by the child, members of the child's family and other relevant persons in mediation;

(D) provision of ~~inpatient~~ *outpatient* treatment for the child;

(E) referral of the child and the child's family to the secretary for children and families for services and the agreement of the child and family to accept and participate in the services offered;

(F) referral of the child and the child's family to available community resources or services and the agreement of the child and family to accept and participate in the services offered;

(G) requiring the child and members of the child's family to enter into a behavioral contract which may provide for regular school attendance among other requirements; or

(H) any special conditions necessary to protect the child from future abuse or neglect.

(3) Deliver the child to a shelter facility or a licensed attendant care center along with the law enforcement officer's written application *for a maximum stay of up to 72 hours.* The shelter facility or licensed attendant care facility shall then have custody as if the child had been directly delivered to the facility by the law enforcement officer pursuant to K.S.A. 2015 Supp. 38-2232, and amendments thereto.

(4) ~~Refer the child to~~ *The intake and assessment worker shall also refer the juvenile's case to one of the following:*

(A) *An immediate intervention program pursuant to K.S.A. 2015 Supp. 38-2346(b), and amendments thereto;*

(B) the county or district attorney for appropriate proceedings to be filed, *with or without a recommendation that the juvenile be considered for alternative means of adjudication programs pursuant to K.S.A. 2015 Supp. 38-2389, and amendments thereto, or immediate intervention pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto;* or

(C) refer the child and family to the secretary for children and families for investigations in regard to the allegations.

~~(5) Make recommendations to the county or district attorney concerning immediate intervention programs which may be beneficial to the juvenile.~~

~~(f) The commissioner may adopt rules and regulations which allow local juvenile intake and assessment programs to create a risk assessment tool, as long as such tool meets the mandatory reporting requirements established by the commissioner secretary of corrections, in conjunction with the office of judicial administration, shall develop, implement and validate on the Kansas juvenile population, a statewide detention risk assessment tool.~~

(1) *The assessment shall be conducted for each youth under consideration for detention and may only be conducted by a juvenile intake and assessment worker who has completed training to conduct the detention risk assessment tool.*

(2) *The secretary and the office of judicial administration shall establish cutoff scores determining eligibility for placement in a juvenile detention facility or for referral to a community-based alternative to detention and shall collect and report data regarding the use of the detention risk assessment tool.*

(3) *The detention risk assessment tool includes an override function that may be approved by the court for use under certain circumstances. If approved by the court, the juvenile intake and assessment worker or the court may override the detention risk assessment tool score in order to direct placement in a short-term shelter facility, a community-based alternative to detention or, subject to K.S.A. 2015 Supp. 38-2331, and amendments thereto, a juvenile detention facility. Such override must be documented, include a written explanation and receive approval from the director of the intake and assessment center or the court.*

(4) *If a juvenile meets one or more eligibility criteria for detention or referral to a community-based alternative to detention, the person with authority to detain shall maintain discretion to release the juvenile if other less restrictive measures would be adequate.*

(g) Parents, guardians and juveniles may access the juvenile intake and assessment programs on a voluntary basis. The parent or guardian shall be responsible for the costs of any such program utilized.

(h) *Every juvenile intake and assessment worker shall receive training in evidence-based practices, including, but not limited to:*

(1) *Risk and needs assessments;*

- (2) *individualized diversions based on needs and strengths;*
- (3) *graduated responses;*
- (4) *family engagement;*
- (5) *trauma-informed care;*
- (6) *substance abuse;*
- (7) *mental health; and*
- (8) *special education.*

Sec. 64. K.S.A. 2015 Supp. 75-7038 is hereby amended to read as follows: 75-7038. The ~~commissioner of juvenile justice~~ *secretary of corrections* may make grants to counties for the development, implementation, operation and improvement of juvenile community correctional services including, but not limited to, restitution programs; victim services programs; balanced and restorative justice programs; preventive or diversionary correctional programs; programs to reduce racial, geographic and other biases that may exist in the juvenile justice system; *community-based alternatives to detention*; and community juvenile corrections centers and facilities for the detention or confinement, care or treatment of juveniles being detained or adjudged to be a juvenile offender.

Sec. 65. K.S.A. 2015 Supp. 75-7044 is hereby amended to read as follows: 75-7044. (a) Subject to the other provisions of this section, each juvenile corrections advisory board established under K.S.A. 75-7038 through 75-7053, and amendments thereto, shall consist of 12 or more members who shall be representative of law enforcement, *defense*, prosecution, the judiciary, education, corrections, ethnic minorities, the social services and the general public and shall be appointed as follows:

(1) The law enforcement representatives shall be:

(A) The sheriff or, if two or more counties are cooperating, the sheriff selected by the sheriffs of those counties, or the designee of that sheriff; and

(B) the chief of police of the city with the largest population at the time the board is established or, if two or more counties are cooperating, the chief of police selected by the chiefs of police of each city with the largest population in each county at the time the board is established, or the designee of that chief of police, except that for purposes of this paragraph in the case of a county having consolidated law enforcement and not having a sheriff or any chiefs of police, “sheriff” means the law enforcement director and “chief of police of the city with the largest population” or “chief of police” means a law enforcement officer, other than the law enforcement director, appointed by the county law enforcement agency for the purposes of this section;

(2) the prosecution representative shall be the county or district attorney or, if two or more counties are cooperating, a county or district attorney selected by the county and district attorneys of those counties, or the designee of that county or district attorney;

(3) the judiciary representative shall be the judge of the district court of the judicial district, who is assigned the juvenile court docket or the judge who is assigned most juvenile court cases, or if there is more than one judge in the judicial district who is assigned the juvenile court docket, the administrative judge of such judicial district shall appoint one of the judges who is assigned the juvenile court docket, containing the county or group of counties or, if two or more counties in two or more judicial districts are cooperating, the judge of each such judicial district, who is assigned the juvenile court docket or the judge who is assigned most juvenile court cases, or if there is more than one judge in the judicial district who is assigned the juvenile court docket, the administrative judge of such judicial district shall appoint one of the judges who is assigned the juvenile court docket;

(4) the education representative shall be an educational professional appointed by the board of county commissioners of the county or, if two or more counties are cooperating, by the boards of county commissioners of those counties;

(5) a court services officer designated by the judge of the district court of the judicial district, who is assigned the juvenile court docket or the judge who is assigned most juvenile court cases, or if there is more than one judge in the judicial district who is assigned the juvenile court docket, the administrative judge of such judicial district shall appoint one of the judges who is assigned the juvenile court docket, containing the county or group of counties or, if counties in two or more judicial districts are cooperating, a court services officer designated by the judges of those judicial districts, who are assigned the juvenile court docket or the judges who are assigned most juvenile court cases;

(6) an executive director of the community mental health center or such director's designee or in the absence of such position, the board of county commissioners of the county shall appoint or, if two or more counties are cooperating, the boards of county commissioners of those counties shall together appoint a representative of mental health service providers for juveniles in such county or counties;

(7) the board of county commissioners of the county shall appoint or, if two or more counties are cooperating, the boards of county commissioners of those counties shall together appoint at least three and no more than six additional members of the juvenile corrections advisory board or, if necessary, additional members so that each county which is not otherwise represented on the board is represented by at least one member of such board;~~and~~

(8) three members of the juvenile corrections advisory board shall be appointed by cities located within the county or group of cooperating counties as follows:

(A) If there are three or more cities of the first class, the governing



body of each of the three cities of the first class having the largest populations shall each appoint one member;

(B) if there are two cities of the first class, the governing body of the larger city of the first class shall appoint two members and the governing body of the smaller city of the first class shall appoint one member;

(C) if there is only one city of the first class, the governing body of such city shall appoint all three members;~~and or~~

(D) if there are no cities of the first class, the governing body of each of the three cities having the largest populations shall each appoint one member; *and*

(9) *the juvenile defense representative shall be a practicing juvenile defense attorney in the judicial district and shall be selected by the judge of the district court of the judicial district who is assigned the juvenile court docket.*

(b) If possible, of the members appointed by the boards of county commissioners in accordance with subsection (a)(7) and by the governing bodies of cities in accordance with subsection (a)(8), members shall be representative of one or more of the following:

- (1) Public or private social service agencies;
- (2) ex-offenders;
- (3) the health care professions; and
- (4) the general public.

(c) At least two members of each juvenile corrections advisory board shall be representative of ethnic minorities and no more than  $\frac{2}{3}$  of the members of each board shall be members of the same gender.

(d) In lieu of the provisions of subsections (a) through (c), a group of cooperating counties as provided in ~~subsection (a)(2) of K.S.A. 75-7052(a)(2)~~, and amendments thereto, may establish a juvenile corrections advisory board which such board's membership shall be determined by such group of counties through cooperative action pursuant to the provisions of K.S.A. 12-2901 through 12-2907, and amendments thereto, to the extent that those statutes do not conflict with the provisions of K.S.A. 75-7038 through 75-7053, and amendments thereto, except that if two or more counties in two or more judicial districts are cooperating, the administrative judge of each such judicial district, or a judge of the district court designated by each such administrative judge shall be a member of such board. In determining the membership of the juvenile corrections advisory board pursuant to this subsection, such group of counties shall appoint members who are representative of law enforcement, *defense*, prosecution, the judiciary, education, corrections, ethnic minorities, the social services and the general public. Any juvenile corrections advisory board established and the membership determined pursuant to this subsection shall be subject to the approval of the commissioner of juvenile justice.

(e) In lieu of the provisions of subsections (a) through (d) and subject

to the approval of the ~~commissioner of juvenile justice~~ *secretary of corrections*, any county may designate the corrections advisory board, as established in K.S.A. 75-5297, and amendments thereto, as such county's juvenile corrections advisory board. For the purposes of K.S.A. 75-7038 through 75-7053, and amendments thereto, if a county designates the corrections advisory board as provided by this subsection, membership on such board shall be expanded to comply with the requirements of subsection (a).

Sec. 66. K.S.A. 2015 Supp. 75-7046 is hereby amended to read as follows: 75-7046. Juvenile corrections advisory boards established under the provisions of K.S.A. 75-7038 through 75-7053, and amendments thereto, shall *adhere to the goals of the juvenile justice code as provided in K.S.A. 2015 Supp. 38-2301, and amendments thereto, coordinate with the Kansas juvenile justice oversight committee created in section 4, and amendments thereto*, actively participate in the formulation of the comprehensive plan for the development, implementation and operation of the juvenile correctional services described in K.S.A. 75-7038, and amendments thereto, in the county or group of cooperating counties, and shall make a formal recommendation to the board or boards of county commissioners at least annually concerning the comprehensive plan and its implementation and operation during the ensuing year. The formal recommendation concerning the comprehensive plan shall include provisions to address racial, geographic and other biases that may exist in the juvenile justice system.

Sec. 67. K.S.A. 2015 Supp. 79-4803 is hereby amended to read as follows: 79-4803. (a) After the transfer of moneys pursuant to K.S.A. 2015 Supp. 79-4806, and amendments thereto:

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

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

(b) There is hereby created in the state treasury the juvenile ~~alternatives to detention-facilities~~ fund which shall be administered by the commissioner of juvenile justice. The Kansas advisory group on juvenile justice and delinquency prevention shall review and make recommendations concerning the administration of the fund. All expenditures from the juvenile ~~alternatives to detention-facilities~~ fund shall be for the ~~retirement of debt of facilities for the detention of juveniles, or for the construction, renovation, remodeling or operational costs of facilities for~~

~~the detention of juveniles~~ *development and operation of community-based alternatives to detention* in accordance with a grant program which shall be established with grant criteria designed by the *secretary of corrections* to facilitate the expeditious award and payment of grants for the purposes for which the moneys are intended. ~~“Operational costs” shall not be limited to any per capita reimbursement by the commissioner of juvenile justice for juveniles under the supervision and custody of the commissioner but shall include payments to counties as and for their costs of operating the facility. The commissioner of juvenile justice~~ *The secretary* shall make grants of the moneys credited to the *juvenile alternatives to detention facilities* fund for such purposes to counties in accordance with such grant program. All expenditures from the *juvenile alternatives to detention facilities* fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~commissioner of juvenile justice secretary or the commissioner’s secretary’s~~ designee.

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

- (1) The average daily balance of moneys in the *juvenile alternatives to detention facilities* fund for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

Sec. 68. K.S.A. 12-4112, 20-167, 75-3722, as amended by section 111 of 2016 House Substitute for Senate Bill No. 161, and 75-6704 and K.S.A. 2015 Supp. 8-241, 8-2110, 12-4117, 38-2302, 38-2313, 38-2347, 38-2360, 38-2364, 38-2367, 38-2372, 65-5603, 74-4914, 75-7038, 75-7044, 75-7046 and 79-4803 are hereby repealed.

Sec. 69. On and after January 1, 2017, K.S.A. 2015 Supp. 38-2330, 38-2331, 38-2332, 38-2344, 38-2346, 38-2373 and 75-7023 are hereby repealed.

Sec. 70. On and after July 1, 2017, K.S.A. 2015 Supp. 38-2304, 38-2325, 38-2334, 38-2335, 38-2342, 38-2343, 38-2361, 38-2368, 38-2369, 38-2371, 38-2374, 38-2375, 38-2376, 38-2377, 38-2389, 72-1113, 72-8222, 72-89b03 and 72-89c02 are hereby repealed.

Sec. 71. On and after July 1, 2019, K.S.A. 2015 Supp. 38-2202, 38-2232, 38-2242, 38-2243, 38-2260 and 38-2288 are hereby repealed.

Sec. 72. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 11, 2016.

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## CHAPTER 47

## SENATE BILL No. 387

AN ACT concerning the pooled money investment board; establishing the board as a separate state agency and eliminating certain administrative and budgetary duties relating to the board from the state treasurer; amending K.S.A. 2015 Supp. 75-4222 and repealing the existing section.

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

New Section 1. For the purpose of preparation of the governor's budget report and related legislative measure or measures for submission to the legislature, the pooled money investment board established in K.S.A. 75-4221a, and amendments thereto, shall be considered a separate state agency and shall be titled for such purpose as the "pooled money investment board." The budget estimates and requests of such board shall be presented as from a state agency separate from the state treasurer and such separation shall be maintained in the budget documents and reports prepared by the director of the budget and the governor, or either of them, including all related legislative reports and measures submitted to the legislature.

Sec. 2. K.S.A. 2015 Supp. 75-4222 is hereby amended to read as follows: 75-4222. (a) It shall be unlawful for the pooled money investment board to award a state bank account to any depository bank in which any member of the board is interested as a stockholder or officer, except upon the unanimous vote of the other members of the board.

(b) The board shall appoint a director of investments who shall be in the unclassified service under the Kansas civil service act. The board may appoint investment officers and investment analysts, who shall be in the unclassified service of the Kansas civil service act. In addition the board may appoint such employees as may be needed who shall be in the classified service of the Kansas civil service act.

(c) From and after the effective date of this act, all current employees of the office of the state treasurer performing any responsibilities, powers, duties or functions related to the municipal investment pool fund are hereby transferred to the pooled money investment board. All such employees shall retain all retirement benefits and all rights of civil service which such employees had before the effective date of this act and their service shall be deemed to have been continuous. All such transfers shall be in accordance with civil service laws and rules and regulations.

~~(d) From and after the effective date of this act, the liability for all accrued compensation, wages or salaries of employees who, immediately prior to such date, were engaged in the performance of responsibilities, powers, duties or functions relating to the municipal investment pool fund in the office of the state treasurer and who are transferred to the pooled money investment board pursuant to subsection (c), shall be assumed and paid from appropriations to the state treasurer for operations of the mu-~~

~~municipal investment pool fund and operations of the pooled money investment board.~~

(e) The employees working for the pooled money investment board shall have access at all times to all papers, documents and property in the custody or possession of the state treasurer that relate to duties of the board, and the state treasurer shall take such steps as may be necessary to make this provision of law effective for such purposes as the pooled money investment board may indicate.

~~(f) On and after the effective date of this act, the state treasurer shall provide the pooled money investment board office space, services, equipment, materials and supplies, and all purchasing and related management functions required by the pooled money investment board in the exercise of the powers, duties and functions imposed or authorized upon such board. The portion of the state treasurer's budget relating to the operations of the pooled money investment board shall be approved by the pooled money investment board prior to submission to the director of the budget.~~

~~(g)~~(e) The director of investments shall keep and preserve a written record of the board's proceedings.

~~(h)~~(f) The board shall make an annual report to the legislature of the investments by the board of all moneys under the jurisdiction and control of the board, by filing a copy of the report with the chief clerk of the house of representatives and with the secretary of the senate no later than the 10<sup>th</sup> calendar day of each regular session of the legislature.

Sec. 3. K.S.A. 2015 Supp. 75-4222 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 6, 2016.

Published in the *Kansas Register* May 12, 2016.

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## CHAPTER 48

## SENATE BILL No. 318

AN ACT concerning utilities; relating to state entities; concerning the Kansas electric transmission authority; abolishing certain funds and transferring the balances; concerning the department of health and environment and the state corporation commission, agency activities; amending K.S.A. 2015 Supp. 45-229 and 65-3031 and repealing the existing sections; also repealing K.S.A. 2015 Supp. 74-99d01, 74-99d02, 74-99d03, 74-99d04, 74-99d05, 74-99d06, 74-99d07, 74-99d08, 74-99d10, 74-99d11, 74-99d12, 74-99d13 and 74-99d14.

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

New Section 1. On the effective date of this act, the director of accounts and reports shall transfer \$45,000 from the KETA administrative fund of the state corporation commission to the state general fund and transfer all remaining moneys in the KETA administrative fund and the KETA development fund of the state corporation commission to the public service regulation fund of the state corporation commission. On the effective date of this act, all liabilities of the KETA administrative fund and the KETA development fund of the state corporation commission are hereby transferred to and imposed on the public service regulation fund of the state corporation commission and the KETA administrative fund and the KETA development fund are hereby abolished.

Sec. 2. K.S.A. 2015 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 override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

(A) Allows the effective and efficient administration of a governmental program, which administration would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or

(C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exception of the type specified in paragraph (2)(B) or (2)(C) of this subsection (h) would occur if the records were made public.

(i) (1) Exceptions contained in the following statutes as continued in existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas and which have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-2227, 17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405, 34-251, 38-2212, 39-709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, 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) 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: 17-2036, 40-5301, 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, 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. 3. K.S.A. 2015 Supp. 65-3031 is hereby amended to read as follows: 65-3031. (a) 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 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. 2015 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 K.S.A. 2015 Supp. 66-1285, 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.

(j) *Due to the February 9, 2016, stay issued by the United States supreme court, all state agency activities, studies and investigations in furtherance of the preparation of an initial submittal or the evaluation of any options for the submission of a final state plan pursuant to the environmental protection agency docket EPA-HQ-OAR-2013-0602, codified*

*as 40 C.F.R. part 60, shall be suspended until the stay is lifted. Nothing in this subsection shall be construed so as to restrict the ability of a state agency from communicating with, or providing information to, other state agencies in furtherance of any of the agency's statutory obligations.*

~~(j)~~(k) This section shall be part of and supplemental to the Kansas air quality act.

Sec. 4. K.S.A. 2015 Supp. 45-229, 65-3031, 74-99d01, 74-99d02, 74-99d03, 74-99d04, 74-99d05, 74-99d06, 74-99d07, 74-99d08, 74-99d10, 74-99d11, 74-99d12, 74-99d13 and 74-99d14 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 6, 2016.

Published in the *Kansas Register* May 19, 2016.

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## CHAPTER 49

### HOUSE BILL No. 2563

AN ACT concerning vehicles; relating to travel trailers; amending K.S.A. 8-199 and K.S.A. 2015 Supp. 8-197 and 8-198 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 8-197 is hereby amended to read as follows: 8-197. (a) The provisions of K.S.A. 8-197 to 8-199, inclusive, and amendments thereto, shall be a part of and supplemental to the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, *and amendments thereto*, and as used in such sections, the words and phrases defined by K.S.A. 8-126, and amendments thereto, shall have the meanings respectively ascribed to them therein.

(b) As used in K.S.A. 8-197 through 8-199, and amendments thereto:

(1) (A) "Nonhighway vehicle" means:

(i) Any motor vehicle which cannot be registered because it is not manufactured for the purpose of using the same on the highways of this state and is not provided with the equipment required by state statute for vehicles of such type which are used on the highways of this state;

(ii) any motor vehicle, other than a salvage vehicle, for which the owner has not provided motor vehicle liability insurance coverage or an approved self insurance plan under K.S.A. 40-3104, and amendments thereto, and has not applied for or obtained registration of such motor vehicle in accordance with article 1 of chapter 8 of the Kansas Statutes Annotated, *and amendments thereto*;

(iii) any all-terrain vehicle;

(iv) any work-site utility vehicle;

(v) any micro utility truck; ~~or~~

(vi) recreational off-highway vehicle; or

(vii) *any travel trailer which cannot be registered because it is not manufactured for the purpose of using the travel trailer on the highways of this state and is not provided with the equipment by state statute for travel trailers which are used on the highways of this state; and*

(B) “nonhighway vehicle” shall not include an implement of husbandry, as defined in K.S.A. 8-126, and amendments thereto.

(2) “Salvage vehicle” means:

(A) Any motor vehicle, other than a late model vehicle, which is of a type required to be registered in this state, but which cannot be registered because it has been wrecked or damaged to the extent that: The equipment required by state statute on any such vehicle used on the highways of this state is not present or is not in good condition or proper adjustment, as prescribed by state statute or any rules and regulations adopted pursuant thereto, or such vehicle is in an inoperable condition or a condition that would render the operation thereof on the highways of this state a hazard to the public safety; and in either event, such vehicle would require substantial repairs to rebuild or restore such vehicle to a condition which will permit the registration thereof;

(B) a late model vehicle which is of a type required to be registered in this state and which has been wrecked or damaged to the extent that the total cost of repair is 75% or more of the fair market value of the motor vehicle immediately preceding the time it was wrecked or damaged and such condition was not merely exterior cosmetic damage to such vehicle as a result of windstorm or hail; ~~or~~

(C) a motor vehicle, which is of a type required to be registered in this state that the insurer determines is a total loss and for which the insurer takes title; or

(D) *a travel trailer which is of a type required to be registered in this state, but which cannot be registered because it has been wrecked or damaged to the extent that: (i) The equipment required by state statute on any such travel trailer used on the highways of this state is not present or is not in good condition or proper adjustment, as prescribed by state statute or any rules and regulations; or (ii) such travel trailer is in an inoperable condition or a condition that would render the operation on the highways of this state a hazard to the public safety; and in either event, such travel trailer would require substantial repairs to rebuild or restore to a condition which will permit the registration of the travel trailer;*

(3) “salvage title” means a certificate of title issued by the division designating a motor vehicle *or travel trailer* a salvage vehicle;

(4) “rebuilt salvage vehicle” means any motor vehicle *or travel trailer* previously issued a salvage title;

(5) “rebuilt salvage title” means a certificate of title issued by the

division for a vehicle previously designated a salvage vehicle which is now designated a rebuilt salvage vehicle;

(6) “late model vehicle” means any motor vehicle which has a manufacturer’s model year designation of or later than the year in which the vehicle was wrecked or damaged or any of the six preceding years;

(7) “fair market value” means the retail value of a motor vehicle as:

(A) Set forth in a current edition of any nationally recognized compilation, including an automated database of retail value; or

(B) determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; *and*

(8) “cost of repairs” means the estimated or actual retail cost of parts needed to repair a vehicle plus the cost of labor computed by using the hourly labor rate and time allocations for automobile repairs that are customary and reasonable. Retail costs of parts and labor rates may be based upon collision estimating manuals or electronic computer estimating systems customarily used in the automobile industry. The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing or reinstalling tires, sound systems, or any sales tax on parts or materials to rebuild or reconstruct the vehicle.

Sec. 2. K.S.A. 2015 Supp. 8-198 is hereby amended to read as follows: 8-198. (a) A nonhighway or salvage vehicle shall not be required to be registered in this state, as provided in K.S.A. 8-135, and amendments thereto, but nothing in this section shall be construed as abrogating, limiting or otherwise affecting the provisions of K.S.A. 8-142, and amendments thereto, which make it unlawful for any person to operate or knowingly permit the operation in this state of a vehicle required to be registered in this state.

(b) Upon the sale or transfer of any nonhighway vehicle or salvage vehicle, the purchaser thereof shall obtain a nonhighway certificate of title or salvage title, whichever is applicable, in the following manner:

(1) If the transferor is a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for such vehicle under this section or under the provisions of K.S.A. 8-135, and amendments thereto, such transferor shall make application for and assign a nonhighway certificate of title or a salvage title, whichever is applicable, to the purchaser of such nonhighway vehicle or salvage vehicle in the same manner and under the same conditions prescribed by K.S.A. 8-135, and amendments thereto, for the application for and assignment of a certificate of title thereunder. Upon the assignment thereof, the purchaser shall make application for a new nonhighway certificate of title or salvage title, as provided in subsection (c) or (d).

(2) Except as provided in ~~subsection (b)~~ of K.S.A. 8-199(b), and amendments thereto, if a certificate of title has been issued for any such vehicle under the provisions of K.S.A. 8-135, and amendments thereto,

the owner of such nonhighway vehicle or salvage vehicle may surrender such certificate of title to the division of vehicles and make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, or the owner may obtain from the county treasurer's office a form prescribed by the division of vehicles and, upon proper execution thereof, may assign the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached to the purchaser of the nonhighway vehicle or salvage vehicle. Upon receipt of the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached, the purchaser shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(3) If the transferor is not a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for the vehicle under this section or a certificate of title was not required under K.S.A. 8-135, and amendments thereto, the transferor shall make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, as provided in this section, except that in addition thereto, the division shall require a bill of sale or such transferor's affidavit, with at least one other corroborating affidavit, that such transferor is the owner of such nonhighway vehicle or salvage vehicle. If the division is satisfied that the transferor is the owner, the division shall issue a nonhighway certificate of title or salvage title, whichever is applicable, for such vehicle, and the transferor shall assign the same to the purchaser, who shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(c) Every purchaser of a nonhighway vehicle, whether assigned a nonhighway certificate of title or a regular certificate of title with the form specified in ~~paragraph (2) of subsection (b)(2)~~ attached, shall make application to the county treasurer of the county in which such person resides for a new nonhighway certificate of title in the same manner and under the same conditions as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under ~~subsection (c)(1) of K.S.A. 8-135(c)(1)~~, and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for a nonhighway certificate of title is made is a nonhighway vehicle and other provisions the director deems necessary. Each application for a nonhighway certificate of title shall be accompanied by a fee of \$10, and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of \$2.



(d) (1) Except as otherwise provided by this section, the owner of a vehicle that meets the definition of a salvage vehicle shall apply for a salvage title before the ownership of the motor vehicle *or travel trailer* is transferred. In no event shall such application be made more than 60 days after the vehicle is determined to be a salvage vehicle.

(2) Every insurance company, which pursuant to a damage settlement, acquires ownership of a vehicle that has incurred damage requiring the vehicle to be designated a salvage vehicle, shall apply for a salvage title within 60 days after the title is assigned and delivered by the owner to the insurance company, with all liens released. In the event that an insurance company is unable to obtain voluntary assignment of the title after 30 days from the date the vehicle owner enters into an oral or written damage settlement agreement where the owner agrees to transfer the title, the insurance company may submit an application on a form prescribed by the division for a salvage title. The form shall be accompanied by an affidavit from the insurance company stating that: (A) The insurance company is unable to obtain a transfer of the title from the owner following an oral or written acceptance of an offer of damage settlement; (B) there is evidence of the damage settlement; (C) that there are no existing liens on the vehicle or all liens on the vehicle have been released; (D) the insurance company has physical possession of the vehicle; and (E) the insurance company has provided the owner, at the owner's last known address, 30 days' prior notice of such intent to transfer and the owner has not delivered a written objection to the insurance company.

(3) Every insurance company which makes a damage settlement for a vehicle that has incurred damage requiring such vehicle to be designated a salvage vehicle, but does not acquire ownership of the vehicle, shall notify the vehicle owner of the owner's obligation to apply for a salvage title for the motor vehicle *or travel trailer*, and shall notify the division of this fact in accordance with procedures established by the division. The vehicle owner shall apply for a salvage title within 60 days after being notified by the insurance company.

(4) The lessee of any vehicle which incurs damage requiring the vehicle to be designated a salvage vehicle shall notify the lessor of this fact within 30 days of the determination that the vehicle is a salvage vehicle.

(5) The lessor of any motor vehicle *or travel trailer* which has incurred damage requiring the vehicle to be titled as a salvage vehicle, shall apply for a salvage title within 60 days after being notified of this fact by the lessee.

(6) Every person acquiring ownership of a motor vehicle *or travel trailer* that meets the definition of a salvage vehicle, for which a salvage title has not been issued, shall apply for the required document prior to any further transfer of such vehicle, but in no event, more than 60 days after ownership is acquired.

(7) Every purchaser of a salvage vehicle, whether assigned a salvage

title or a regular certificate of title with the form specified in ~~paragraph (2) of subsection (b)(2)~~ attached, shall make application to the county treasurer of the county in which such person resides for a new salvage title, in the same manner and under the same condition as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under ~~subsection (c)(1) of K.S.A. 8-135(c)(1)~~, and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for salvage title is made is a salvage vehicle, and other provisions the director deems necessary. Each application for a salvage title shall be accompanied by a fee of \$10 and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of \$2.

(8) Failure to apply for a salvage title as provided by this subsection shall be a class C nonperson misdemeanor.

(e) A nonhighway certificate of title or salvage title shall be in form and color as prescribed by the director of vehicles. A nonhighway certificate of title or salvage title shall indicate clearly and distinctly on its face that it is issued for a nonhighway vehicle or salvage vehicle, whichever is applicable. A nonhighway certificate of title or salvage title shall contain substantially the same information as required on a certificate of title issued under K.S.A. 8-135, and amendments thereto, and other information the director deems necessary.

(f) (1) A nonhighway certificate of title or salvage title may be transferred in the same manner and under the same conditions as prescribed by K.S.A. 8-135, and amendments thereto, for the transfer of a certificate of title, except as otherwise provided in this section. A nonhighway certificate of title or salvage title may be assigned and transferred only while the vehicle remains a nonhighway vehicle or salvage vehicle.

(2) Upon transfer or sale of a nonhighway vehicle in a condition which will allow the registration of such vehicle, the owner shall assign the nonhighway certificate of title to the purchaser, and the purchaser shall obtain a certificate of title and register such vehicle as provided in K.S.A. 8-135, and amendments thereto. No regular certificate of title shall be issued for a vehicle for which there has been issued a nonhighway certificate of title until there has been compliance with K.S.A. 8-116a, and amendments thereto.

(3) (A) Upon transfer or sale of a salvage vehicle which has been rebuilt or restored or is otherwise in a condition which will allow the registration of such vehicle, the owner shall assign the salvage title to the purchaser, and the purchaser shall obtain a rebuilt salvage title and register such vehicle as provided in K.S.A. 8-135, and amendments thereto.

No rebuilt salvage title shall be issued for a vehicle for which there has been issued a salvage title until there has been compliance with K.S.A. 8-116a, and amendments thereto, and the notice required in ~~paragraph (3)(B) of this subsection~~(f)(3)(B) has been attached to such vehicle.

(B) As part of the inspection for a rebuilt salvage title conducted under K.S.A. 8-116a, and amendments thereto, the Kansas highway patrol shall attach a notice affixed to the left door frame of the rebuilt salvage vehicle indicating the vehicle identification number of such vehicle and that such vehicle is a rebuilt salvage vehicle. In addition to any fee allowed under K.S.A. 8-116a, and amendments thereto, a fee of \$5 shall be collected from the owner of such vehicle requesting the inspection for the notice required under this paragraph. All moneys received under this paragraph shall be remitted in accordance with ~~subsection (e) of K.S.A. 8-116a~~(e), and amendments thereto.

(C) Failure to apply for a rebuilt salvage title as provided by this paragraph shall be a class C nonperson misdemeanor.

(g) The owner of a salvage vehicle which has been issued a salvage title and has been assembled, reconstructed, reconstituted or restored or otherwise placed in an operable condition may make application to the county treasurer for a permit to operate such vehicle on the highways of this state over the most direct route from the place such salvage vehicle is located to a specified location named on the permit and to return to the original location. No such permit shall be issued for any vehicle unless the owner has motor vehicle liability insurance coverage or an approved self-insurance plan under K.S.A. 40-3104, and amendments thereto. Such permit shall be on a form furnished by the director of vehicles and shall state the date the vehicle is to be taken to the other location, the name of the insurer, as defined in K.S.A. 40-3103, and amendments thereto, and the policy number or a statement that the vehicle is included in a self-insurance plan approved by the commissioner of insurance, a statement attesting to the correctness of the information concerning financial security, the vehicle identification number and a description of the vehicle. Such permit shall be signed by the owner of the vehicle. The permit shall be carried in the vehicle for which it is issued and shall be displayed so that it is visible from the rear of the vehicle. The fee for such permit shall be \$1 which shall be retained by the county treasurer, who shall annually forward 25% of all such fees collected to the division of vehicles to reimburse the division for administrative expenses, and shall deposit the remainder in a special fund for expenses of issuing such permits.

(h) A nonhighway vehicle or salvage vehicle for which a nonhighway certificate of title or salvage title has been issued pursuant to this section shall not be deemed a motor vehicle for the purposes of K.S.A. 40-3101 to 40-3121, inclusive, and amendments thereto, except when such vehicle is being operated pursuant to subsection (g). Any person who knowingly makes a false statement concerning financial security in obtaining a per-

mit pursuant to subsection (g), or who fails to obtain a permit when required by law to do so is guilty of a class C misdemeanor.

(i) Any person who, on July 1, 1996, is the owner of an all-terrain vehicle, as defined in K.S.A. 8-126, and amendments thereto, shall not be required to file an application for a nonhighway certificate of title under the provisions of this section for such all-terrain vehicle, unless the person transfers an interest in such all-terrain vehicle.

(j) Any person who, on July 1, 2006, is the owner of a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments thereto, shall not be required to file an application for a nonhighway certificate of title under the provisions of this section for such work-site utility vehicle, unless the person transfers an interest in such work-site utility vehicle.

Sec. 3. K.S.A. 8-199 is hereby amended to read as follows: 8-199. (a) Except as provided in subsection (b), it shall be unlawful for any person to sell or transfer the ownership of any nonhighway vehicle or salvage vehicle, unless such person shall give to the purchaser thereof an assigned nonhighway certificate of title or salvage title.

(b) The sale or transfer of ownership of a nonhighway vehicle or salvage vehicle shall include the acquisition of any such vehicle by an insurer, as defined by K.S.A. 40-3103, and amendments thereto, from any person upon payment of consideration therefor in satisfaction of such insurer's obligation under a policy of motor vehicle insurance but the transferor of a vehicle for which a title has been issued under K.S.A. 8-135, and amendments thereto, shall not be required to obtain a nonhighway certificate of title or salvage title for such vehicle and may assign to the insurer the certificate of title issued pursuant to K.S.A. 8-135, and amendments thereto. It shall be unlawful for any insurer to sell or attempt to sell any nonhighway vehicle or salvage vehicle, through power of attorney or otherwise, unless such insurer shall obtain a nonhighway certificate of title or salvage title issued in the name of the insurer.

(c) Any person, firm, company, corporation, partnership, association or other legal entity who violates the provisions of this section shall be guilty of a class C misdemeanor.

(d) Nothing in this act shall be construed as relieving any person of the payment of the tax imposed on the sale of a motor vehicle *or travel trailer* pursuant to K.S.A. 79-3603, and amendments thereto.

Sec. 4. K.S.A. 8-199 and K.S.A. 2015 Supp. 8-197 and 8-198 are hereby repealed.

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

## CHAPTER 50

## SENATE BILL No. 321

AN ACT concerning probate; relating to filing of wills; amending K.S.A. 2015 Supp. 59-618a and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 59-618a is hereby amended to read as follows: 59-618a. (a) Any person possessing a decedent's will may file in the district court of the county of the decedent's last residence the decedent's will and an affidavit which complies with subsection (b) ~~if the decedent's probate estate contains no known real or personal property or the value of the known real and personal property in the decedent's probate estate is less than the total of all known demands enumerated in K.S.A. 59-1301, and amendments thereto.~~

(b) An affidavit filed pursuant to this section shall state: (1) The name, residence address and date and place of death of the decedent; (2) the names, addresses and relationships of all the decedent's heirs, legatees and devisees which are known to the affiant after a diligent search and inquiry; (3) the name and address of any trustee of any trust established under the will; (4) ~~the property left by the decedent and its approximate valuation; (5) the approximate amount and nature of any demands enumerated in K.S.A. 59-1301, and amendments thereto, which were outstanding against the decedent's estate upon the decedent's death; (6) that the will is being filed with the district court for the purpose of preserving it for record in the event that probate proceedings are later required; and~~ (5) that a copy of the affidavit and will has been mailed to each heir, legatee and devisee named in the affidavit.

(c) Any will filed pursuant to this section within a period of six months after the death of the testator may be admitted to probate after such six-month period.

Sec. 2. K.S.A. 2015 Supp. 59-618a 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 6, 2016.

Published in the *Kansas Register* May 19, 2016.

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## CHAPTER 51

## HOUSE BILL No. 2480

AN ACT concerning livestock; relating to marks and brands; amending K.S.A. 47-418, 47-421, 47-423 and 47-426 and K.S.A. 2015 Supp. 47-414, 47-414a, 47-416, 47-417, 47-417a, 47-420, 47-422, 47-428, 47-446 and 47-1011a and repealing the existing sections; also repealing K.S.A. 47-436, 47-438, 47-439, 47-440, 47-445 and 47-447 and K.S.A. 2015 Supp. 47-418a, 47-432, 47-433, 47-434, 47-435, 47-437, 47-441 and 47-442.

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

New Section 1. On July 1, 2016, the director of accounts and reports shall transfer all moneys in the livestock brand emergency revolving fund and the county option brand fee fund to the livestock brand fee fund established in K.S.A. 47-417a, and amendments thereto. On July 1, 2016, all liabilities of the livestock brand emergency revolving fund and the county option brand fee fund are hereby transferred to and imposed on the livestock brand fee fund, and the livestock brand emergency revolving fund and the county option brand fee fund are hereby abolished.

Sec. 2. K.S.A. 2015 Supp. 47-414 is hereby amended to read as follows: 47-414. As used in ~~this act~~ *article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, except where the context clearly indicates a different meaning:*

(a) "Person" means every natural person, firm, copartnership, association or corporation;

(b) "livestock" means cattle, ~~sheep,~~ horses, mules or asses;

(c) "brand" means any permanent identifying mark upon the surface of any livestock, except upon horns and hoofs, made by ~~any acid, chemical,~~ a hot iron or cryogenic branding; ~~and, also in the case of sheep shall include the identifying marks made by paint or tar;~~

(d) "commissioner" means the animal health commissioner of the Kansas department of agriculture;

(e) ~~"board" means the animal health board, created in K.S.A. 74-4001, and amendments thereto;~~

~~(f)~~ "cryogenic branding" means a brand produced by application of extreme cold temperature.

Sec. 3. K.S.A. 2015 Supp. 47-414a is hereby amended to read as follows: 47-414a. ~~(a)~~ Whenever in any statutes of this state the terms "livestock commissioner," "livestock brand commissioner" or "brand commissioner" are used, or the term "commissioner" is used to refer to the livestock brand commissioner, such terms shall be construed to mean the animal health commissioner appointed by the secretary of agriculture pursuant to K.S.A. 74-5,119, and amendments thereto.

~~(b)~~ Whenever the term "board" is used in the acts contained in K.S.A. 47-414 through 47-433, and amendments thereto, such term shall be construed to mean the Kansas animal health board created in K.S.A. 74-4001, and amendments thereto.

Sec. 4. K.S.A. 2015 Supp. 47-416 is hereby amended to read as follows: 47-416. It shall be the duty of the animal health commissioner to keep all books and records and to record all brands used for the branding or marking of livestock in Kansas. The commissioner shall receive applications for the recording of any and all brands and the commissioner shall decide on the availability and desirability of any brand or brands sent in for recording.

The commissioner, *with the approval of the secretary of the Kansas department of agriculture*, may appoint ~~an assistant commissioner in charge of brands and~~ such brand inspectors, special investigators, examiners, deputy assistants and employees necessary, *and the secretary may enter into contractual agreements with the attorney general*, to carry out the provisions of ~~the acts contained in~~ article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, ~~subject to approval of the board.~~

Sec. 5. K.S.A. 2015 Supp. 47-417 is hereby amended to read as follows: 47-417. (a) Any person may adopt a brand for the purpose of branding livestock in accordance with authorized rules and regulations of the animal health commissioner of the Kansas department of agriculture division of animal health. Such person shall have the exclusive right to use such brand in this state, after registering such brand with the animal health commissioner.

(b) Any person desiring to register a livestock brand shall forward to the commissioner a facsimile of such brand and shall accompany the same with the registration fee in the amount provided under this section. Each person making application for the registering of an available livestock brand shall be issued a certificate of brand title. Such brand title shall be valid for a period ending four years subsequent to the next April 1 following date of issuance.

(c) For the purpose of revising the brand records, the animal health commissioner shall collect a renewal fee in the amount provided under this section on all brands upon which the recording period expires. Any person submitting such renewal fee shall be entitled to a renewal of registration of such person's livestock brand for a five-year period from the date of expiration of registration of such person's livestock brand as shown by such person's last certificate of brand title.

(d) The livestock brand of any person whose registration expires and who fails to pay such renewal fee within a grace period of 60 days after expiration of the registration period shall be ~~placed in a delinquency status~~ *forfeited*. The use of a ~~delinquent~~ *forfeited* brand shall be unlawful. ~~If the owner of any delinquent registered brand the registration of which has expired fails to renew registration of such brand within 120 days after such brand became delinquent, such failure shall constitute an abandonment of all claim to any property right in such brand.~~

(e) Upon the ~~expiration of such delinquency period without any request for renewal and required remittance from the last record owner of a brand or such owner's heirs, legatees or assigns, and with the termination of property rights by abandonment~~ *forfeiture of a livestock brand*, the animal health commissioner is authorized to receive and accept an application for such brand to the same extent as if such brand had never been issued to anyone as a registered brand.

(f) The animal health commissioner shall determine annually the amount of funds which will be required for the purposes for which the brand registration and renewal fees are charged and collected and shall fix and adjust from time to time each such fee in such reasonable amount as may be necessary for such purposes, except that in no case shall either the brand registration fee or the renewal fee exceed \$55. The amounts of the brand registration fee and the renewal fee in effect on the day preceding the effective date of this act shall continue in effect until the animal health commissioner fixes different amounts for such fees under this section.

Sec. 6. K.S.A. 2015 Supp. 47-417a is hereby amended to read as follows: 47-417a. (a) The animal health commissioner, when brand inspectors or examiners are available, may provide brand inspection. When brand inspection is requested and provided, the animal health commissioner shall charge and collect from the person making the request, a brand inspection fee of not to exceed \$.75 per head ~~on cattle and \$.05 per head on sheep and other~~ *for all* livestock. No inspection charge shall be made or collected at any licensed livestock market where brand inspection is otherwise available.

(b) The animal health commissioner shall remit all moneys received under the statutes contained in article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, ~~except K.S.A. 47-434 through 47-445, and amendments thereto,~~ to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the livestock brand fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~animal health commissioner or by a person or persons designated by the commissioner~~ *secretary of agriculture*.

(c) *The commissioner is authorized to adopt and enforce such rules and regulations governing brand inspections as the commissioner shall deem necessary for the proper enforcement of the livestock laws in Kansas. The commissioner, brand inspectors and special investigators shall aid in investigations and prosecutions of violations of the livestock laws of Kan-*



*sas and other laws of this state and of the rules and regulations of the commissioner.*

Sec. 7. K.S.A. 47-418 is hereby amended to read as follows: 47-418. Livestock may be branded in any way, or on any part of the animal, according to rules and regulations adopted by the commissioner, but livestock shall be branded so that they may be readily distinguished should they become intermixed with other herds. Livestock brands for identification of cattle to control diseases may be placed on the ~~head or tailhead~~ of the cattle. ~~The letter "T" shall be used on the left jaw, by hot iron, to identify tuberculosis reactors; the letter "V" may be used on the left jaw, by hot iron, to identify brucellosis vaccinated cattle; the letter "S" may be used on the left jaw or the tailhead, by hot iron, to identify brucellosis exposed or untested test eligible animals; the letter "F" may be used on the left jaw or the left tailhead, by hot iron, to designate heifers from B and C states as listed by the United States department of agriculture.~~ No applications for livestock brands for owner identification shall be issued for head, neck or tailhead locations, and the ~~head and tailhead locations~~ *location* for livestock brands shall be reserved for brands for disease control purposes, except that head, neck and tailhead brands presently effective may have registration renewal upon term expirations. No evidence of ownership of brands shall be recorded except as provided in this act.

Sec. 8. K.S.A. 2015 Supp. 47-420 is hereby amended to read as follows: 47-420. (a) It shall be unlawful for any person to use any brand for branding any livestock unless such brand has been duly registered in the office of the animal health commissioner ~~at Topeka~~, except: (1) The use of a single numeral digit, zero to nine, in conjunction with the registered brand of the owner may be used for the purpose of determining the age of the branded animal, such number to be applied at least six inches from such registered brand; (2) the use of serial numbers in conjunction with the registered brand of the owner may be used for the purpose of identifying individual animals, such numbers to be applied at least six inches from the registered brand; (3) the use of numbers in conjunction with the registered brand of the owner may be used for the purpose of identifying herds of the same owner for feeding or experimental purposes, such numbers to be applied at least six inches from the registered brand; and (4) the use of a digital system of branding livestock may be used for the purpose of identifying animals in a licensed feedlot. Such feedlot brand may be used in conjunction with the registered brand of the owner, such brand to be applied at least six inches from such registered brand or may be used on animals which are not branded with a registered brand of the owner, subject to conditions, limitations and requirements applicable to the use of a feedlot brand as prescribed in K.S.A. 47-446, and amendments thereto.

(b) The age, serial, herd or feedlot brand shall not be construed as a

part of the registered brand and the use of such numeral or numerals, *whether or not such use is* in conjunction with a registered brand, shall not be unlawful. ~~Before any person uses any such serial or herd brand in conjunction with a registered brand, such person shall first obtain a permit from the animal health commissioner authorizing such use.~~

~~(b)(c)~~ The animal health commissioner ~~is authorized~~ *may allow applicants to receive applications for permits for such denote on an application for a registered brand whether the applicant shall use age, serial or herd brands, and issue permits thereon. All applications for such permits shall be accompanied by a permit fee of \$1.50. No such fee shall be required if the application for such permit is submitted in conjunction with an original application for the registered brand or in conjunction with a request for renewal of registration of a registered brand may allow the owner of a registered brand to amend the registered brand to denote whether the applicant will use such age, serial or herd brands.*

Sec. 9. K.S.A. 47-421 is hereby amended to read as follows: 47-421. *(a) Except as provided in subsection (b), any person who willfully brands or causes to be branded any livestock in any manner other than as required or authorized by the laws of this state and the rules and regulations of the animal health commissioner shall be deemed guilty of a class A misdemeanor.*

*(b) Any person who shall willfully and knowingly brand or cause to be branded with such person's brand, or any brand not the recorded brand of the owner, any livestock being the property of another, or who shall willfully or knowingly efface, deface or obliterate any brand upon any livestock, shall be deemed guilty of a nondrug severity level 6, non-person felony, and upon conviction thereof shall be punished by confinement in the custody of the secretary of corrections for a period not exceeding five years.*

*(c) Prosecution for violation of the provisions of this section may be had either in the county where such violation occurred or in any county in which the livestock may be located or found in the possession of the accused.*

Sec. 10. K.S.A. 2015 Supp. 47-422 is hereby amended to read as follows: 47-422. ~~(a)~~ Any brand registered with the animal health commissioner of the Kansas department of agriculture in compliance with the requirements of ~~this act~~ *article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto*, shall be the property of the person causing such record to be made. Such brand shall be subject to sale, assignment, transfer, devise and descent as other personal property. Instruments of writing evidencing the sale, assignment or transfer of such brand shall be recorded by the animal health commissioner. The fee for recording such instruments of writing shall be ~~\$15~~ *an amount not to exceed \$30*. Such instruments shall have the same force and effect as

recorded instruments affecting real estate. A certified copy of the record of any such instrument may be introduced in evidence the same as certified copies of instruments affecting real estate. Any brand recorded with the Kansas department of agriculture division of animal health shall not be used by any person other than the recorded owner.

~~(b) Any person violating any provision of this section shall be guilty of a class C misdemeanor.~~

Sec. 11. K.S.A. 47-423 is hereby amended to read as follows: 47-423. Any person who causes to be brought into ~~any county~~ of the state from any other state for the purpose of grazing or feeding for a period of not to exceed ~~eight~~ 12 months, livestock which carry a brand or brands recorded in a recognized brand organization of any other state, shall ~~upon obtaining a permit from the commissioner~~ be exempt from the provisions of K.S.A. 47-420, and amendments thereto, for a period of ~~eight~~ 12 months. After such time such brand or a new brand must be recorded in this state, ~~or an extension of such permit obtained from the commissioner.~~ Failure to comply with the provisions of this section will render the party so violating liable for all damages resulting from such failure.

Sec. 12. K.S.A. 47-426 is hereby amended to read as follows: 47-426. The commissioner may make all the necessary rules and regulations to carry out the provisions of ~~this act~~ *article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto*, and may by such rules and regulations make and provide for exceptions, in addition to those listed in K.S.A. 47-420, and amendments thereto, for the use of particular brands in conjunction with the recorded brand. ~~Any such brands shall be at least six inches from the recorded brand.~~

Sec. 13. K.S.A. 2015 Supp. 47-428 is hereby amended to read as follows: 47-428. The animal health commissioner and the commissioner's deputies ~~or~~, assistants, *special investigators, inspectors or examiners* are hereby authorized to enter upon any private lands to make any inspections necessary for the purpose of carrying out the provisions of ~~this act or any of the provisions of~~ *article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto*. The commissioner and the commissioner's deputies or assistants may accept proof of ownership of livestock from any person in possession of animals bearing the recorded brands of another party ~~or any other identification~~ as sufficient to exclude and exempt such animals from being classified as stray animals under the provisions of ~~this act~~ *article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto*.

Sec. 14. K.S.A. 2015 Supp. 47-446 is hereby amended to read as follows: 47-446. Feedlot brands may be lawfully applied to livestock which are not branded with a registered brand of the owner and which are in the custody of, and upon the premises of, a feedlot operator licensed under the provisions of article 15 of chapter 47 of the Kansas Statutes

~~Annotated, and amendments thereto, subject to the following conditions, limitations and requirements: (1). Such feedlot brand shall not be construed as evidence of ownership identification; (2) livestock which are branded with a feedlot brand shall be held by the licensed feedlot operator under quarantine upon such feedlot premises until either released by such feedlot operator for movement to slaughter or released by the animal health commissioner or such commissioner's authorized representative, by issuance of a permit authorizing such livestock to be moved from the feedlot premises for grazing purposes. Any such permit only shall be issued if such livestock have been branded with a registered brand of the owner of the livestock before release from licensed feedlot premises.~~

Sec. 15. K.S.A. 2015 Supp. 47-1011a is hereby amended to read as follows: 47-1011a. (a) The public livestock market operator shall collect from the consignor of cattle sold at a public livestock market, where brand inspection of such cattle is requested, by the public livestock market operator, as a brand inspection fee, in addition to amounts specified in K.S.A. 47-1011, and amendments thereto, a sum of not more than \$.40 per head on all such cattle. Such amount shall be determined by the animal health commissioner. If a public livestock market operator requests brand inspection at a public livestock market pursuant to this section, the public livestock market operator shall contract with the animal health commissioner to perform such brand inspection services.

~~(b) Where cattle consigned to, or sold at, such public livestock market originate in, and have brand inspection clearance from a county option brand inspection area, operating under K.S.A. 47-434 through 47-445, and amendments thereto, such livestock brand inspection fee under this section shall not be required.~~

~~(c)~~—The public livestock market operator shall pay all amounts received under this section to the animal health commissioner.

~~(d)~~-(c) The animal health 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 livestock market brand inspection fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the animal health commissioner or by a person or persons designated by the commissioner.

Sec. 16. K.S.A. 47-418, 47-421, 47-423, 47-426, 47-436, 47-438, 47-439, 47-440, 47-445 and 47-447 and K.S.A. 2015 Supp. 47-414, 47-414a, 47-416, 47-417, 47-417a, 47-418a, 47-420, 47-422, 47-428, 47-432, 47-433, 47-434, 47-435, 47-437, 47-441, 47-442, 47-446 and 47-1011a are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 6, 2016.

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CHAPTER 52

HOUSE BILL No. 2164

AN ACT concerning sewer districts; amending K.S.A. 19-27a19 and repealing the existing section.

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

Section 1. K.S.A. 19-27a19 is hereby amended to read as follows: 19-27a19. All contracts for any construction of all or part of a sewer system, the cost of which shall exceed ~~\$1,000~~ \$2,500, shall be awarded on a public letting to the lowest responsible bidder and in the manner provided by K.S.A. 19-214, 19-215 and 19-216, and amendments thereto.

Sec. 2. K.S.A. 19-27a19 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 6, 2016.

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CHAPTER 53

SENATE BILL No. 408

AN ACT concerning abuse, neglect and exploitation of persons; relating to reporting and investigation; duties and powers of attorney general, law enforcement and department of corrections; amending K.S.A. 2015 Supp. 38-2223, 38-2226 and 75-723 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 38-2223 is hereby amended to read as follows: 38-2223. (a) *Persons making reports.* (1) When any of the following persons has reason to suspect that a child has been harmed as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly as provided in subsections (b) and (c);

(A) The following persons providing medical care or treatment: Persons licensed to practice the healing arts, dentistry and optometry, persons engaged in postgraduate training programs approved by the state board of healing arts, licensed professional or practical nurses and chief administrative officers of medical care facilities;

(B) the following persons licensed by the state to provide mental health services: Licensed psychologists, licensed masters level psychologists, licensed clinical psychotherapists, licensed social workers, licensed marriage and family therapists, licensed clinical marriage and family therapists, *licensed behavioral analysts*, *licensed assistant behavioral analysts*, licensed professional counselors, licensed clinical professional counselors and registered alcohol and drug abuse counselors;

(C) teachers, school administrators or other employees of an educational institution which the child is attending and persons licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child;

(D) firefighters, emergency medical services personnel, law enforcement officers, juvenile intake and assessment workers, court services officers, community corrections officers, case managers appointed under K.S.A. 2015 Supp. 23-3508, and amendments thereto, and mediators appointed under K.S.A. 2015 Supp. 23-3502, and amendments thereto; and

(E) any person employed by or who works as a volunteer for any organization, whether for profit or not-for-profit, that provides social services to pregnant teenagers, including, but not limited to, counseling, adoption services and pregnancy education and maintenance.

(2) In addition to the reports required under subsection (a)(1), any person who has reason to suspect that a child may be a child in need of care may report the matter as provided in subsection (b) and (c).

(b) *Form of report.* (1) The report may be made orally and shall be followed by a written report if requested. Every report shall contain, if known: The names and addresses of the child and the child's parents or other persons responsible for the child's care; the location of the child if not at the child's residence; the child's gender, race and age; the reasons why the reporter suspects the child may be a child in need of care; if abuse or neglect or sexual abuse is suspected, the nature and extent of the harm to the child, including any evidence of previous harm; and any other information that the reporter believes might be helpful in establishing the cause of the harm and the identity of the persons responsible for the harm.

(2) When reporting a suspicion that a child may be in need of care, the reporter shall disclose protected health information freely and cooperate fully with the secretary and law enforcement throughout the investigation and any subsequent legal process.

(c) *To whom made.* Reports made pursuant to this section shall be made to the secretary, except as follows:

(1) When the Kansas department for children and families is not open for business, reports shall be made to the appropriate law enforcement agency. On the next day that the department is open for business, the law enforcement agency shall report to the department any report re-

ceived and any investigation initiated pursuant to K.S.A. 2015 Supp. 38-2226, and amendments thereto. The reports may be made orally or, on request of the secretary, in writing.

(2) *Reports of child abuse or neglect occurring in an institution operated by the Kansas department of corrections shall be made to the attorney general or the secretary of corrections.* Reports of child abuse or neglect occurring in an institution operated by the Kansas department for aging and disability services ~~or the commissioner of juvenile justice~~ shall be made to the ~~attorney general~~ *appropriate law enforcement agency*. All other reports of child abuse or neglect by persons employed by ~~or of children of persons employed by~~ the Kansas department for aging and disability services ~~and or the Kansas department for children and families, or of children of persons employed by either department,~~ shall be made to the appropriate law enforcement agency.

(d) *Death of child.* Any person who is required by this section to report a suspicion that a child is in need of care and who knows of information relating to the death of a child shall immediately notify the coroner as provided by K.S.A. 22a-242, and amendments thereto.

(e) *Violations.* (1) Willful and knowing failure to make a report required by this section is a class B misdemeanor. It is not a defense that another mandatory reporter made a report.

(2) Intentionally preventing or interfering with the making of a report required by this section is a class B misdemeanor.

(3) Any person who willfully and knowingly makes a false report pursuant to this section or makes a report that such person knows lacks factual foundation is guilty of a class B misdemeanor.

(f) *Immunity from liability.* Anyone who, without malice, participates in the making of a report to the secretary or a law enforcement agency relating to a suspicion a child may be a child in need of care or who participates in any activity or investigation relating to the report or who participates in any judicial proceeding resulting from the report shall have immunity from any civil liability that might otherwise be incurred or imposed.

Sec. 2. K.S.A. 2015 Supp. 38-2226 is hereby amended to read as follows: 38-2226. (a) *Investigation for child abuse or neglect.* The secretary and law enforcement officers shall have the duty to receive and investigate reports of child abuse or neglect for the purpose of determining whether the report is valid and whether action is required to protect a child. Any person or agency which maintains records relating to the involved child which are relevant to any investigation conducted by the secretary or law enforcement agency under this code shall provide the secretary or law enforcement agency with the necessary records to assist in investigations. In order to provide such records, the person or agency maintaining the records shall receive from the secretary or law enforce-

ment: (1) A written request for information; and (2) a written notice that the investigation is being conducted by the secretary or law enforcement. If the secretary and such officers determine that no action is necessary to protect the child but that a criminal prosecution should be considered, such law enforcement officers shall make a report of the case to the appropriate law enforcement agency.

(b) *Joint investigations.* When a report of child abuse or neglect indicates: (1) That there is serious physical harm to, serious deterioration of or sexual abuse of the child; and (2) that action may be required to protect the child, the investigation shall be conducted as a joint effort between the secretary and the appropriate law enforcement agency or agencies, with a free exchange of information between them pursuant to K.S.A. 2015 Supp. 38-2210, and amendments thereto. If a statement of a suspect is obtained by either agency, a copy of the statement shall be provided to the other.

(c) *Investigation of certain cases.* Suspected child abuse or neglect which occurs in an institution operated by the ~~secretary~~ *Kansas department of corrections* shall be investigated by the attorney general or *secretary of corrections*. Any ~~other~~ suspected child abuse or neglect *in an institution operated by the Kansas department for aging and disability services, or by persons employed by the Kansas department for children and families aging and disability services or the Kansas department for children and families, or of children of persons employed by either department,* shall be investigated by the appropriate law enforcement agency.

(d) *Coordination of investigations by county or district attorney.* If a dispute develops between agencies investigating a reported case of child abuse or neglect, the appropriate county or district attorney shall take charge of, direct and coordinate the investigation.

(e) *Investigations concerning certain facilities.* Any investigation involving a facility subject to licensing or regulation by the secretary of health and environment shall be promptly reported to the state secretary of health and environment.

(f) *Cooperation between agencies.* Law enforcement agencies and the secretary shall assist each other in taking action which is necessary to protect a child regardless of which agency conducted the initial investigation.

(g) *Cooperation between school personnel and investigative agencies.*  
(1) Educational institutions, the secretary and law enforcement agencies shall cooperate with each other in the investigation of reports of suspected child abuse or neglect. The secretary and law enforcement agencies shall have access to a child in a setting designated by school personnel on the premises of an educational institution. Attendance at an interview conducted on such premises shall be at the discretion of the agency conducting the interview, giving consideration to the best interests of the



child. To the extent that safety and practical considerations allow, law enforcement officers on such premises for the purpose of investigating a report of suspected child abuse or neglect shall not be in uniform.

(2) The secretary or a law enforcement officer may request the presence of school personnel during an interview if the secretary or officer determines that the presence of such person might provide comfort to the child or facilitate the investigation.

Sec. 3. K.S.A. 2015 Supp. 75-723 is hereby amended to read as follows: 75-723. (a) There is hereby created in the office of the attorney general an abuse, neglect and exploitation of persons unit.

(b) *Within the limits of available resources, the unit may, in the attorney general's discretion:*

(1) *Participate in the prevention, detection, review and prosecution of abuse, neglect and exploitation of persons, whether financial or physical;*

(2) *conduct investigations of suspected criminal abuse, neglect or exploitation of persons;*

(3) *coordinate with and assist other law enforcement agencies, or participate in task forces or joint operations, in the investigation of suspected criminal abuse, neglect or exploitation of persons;*

(4) *coordinate with and assist the medicaid fraud and abuse division established by K.S.A. 75-725, and amendments thereto, in the prevention, detection and investigation of abuse, neglect and exploitation of persons;*

(5) *work with or participate in the Kansas internet crimes against children task force, and work with any exploited and missing child investigators and any other child crime investigators;*

(6) *assist in any investigation of child abuse or neglect conducted by a law enforcement agency pursuant to K.S.A. 2015 Supp. 38-2226, and amendments thereto; and*

(7) *assist in any investigation of adult abuse, neglect, exploitation or fiduciary abuse conducted by a law enforcement agency pursuant to K.S.A. 2015 Supp. 39-1443, and amendments thereto.*

(c) *The unit shall give priority to preventing, detecting and investigating abuse, neglect or exploitation of adults who are senior citizens, disabled or otherwise vulnerable to abuse, neglect or exploitation.*

(d) Except as provided by subsection ~~(h)~~ (k), the information obtained and the investigations conducted by the unit shall be confidential as required by state or federal law. Upon request of the unit, the unit shall have access to all records of reports, investigation documents and written reports of findings related to ~~confirmed~~ *substantiated or affirmed* cases of abuse, neglect or exploitation of persons or cases in which ~~there is~~ *the attorney general has* reasonable suspicion to believe abuse, neglect or exploitation of persons has occurred which are received or generated by the Kansas department for children and families, Kansas department for

~~aging and disability services or department of health and environment a state agency.~~

(e) *Whenever a state agency reports a matter involving suspected abuse, neglect or exploitation of an adult to a law enforcement agency or a county or district attorney, such state agency shall simultaneously forward such report to the unit.*

~~(e)-(f)~~ Except for reports alleging only self-neglect, ~~such a~~ state agency receiving reports of abuse, neglect or exploitation of ~~persons adults~~ shall forward to the unit:

(1) Within 10 days of ~~confirmation~~ *substantiation*, reports of findings concerning the ~~confirmed~~ *substantiated* abuse, neglect or exploitation of ~~persons adults~~; and

(2) within 10 days of such denial, each report of an investigation in which such state agency was denied the opportunity or ability to conduct or complete a full investigation of abuse, neglect or exploitation of ~~persons adults~~.

~~(d)-(g)~~ On or before the first day of the regular legislative session each year, the unit shall submit to the legislature a written report of the unit's activities, investigations and findings for the preceding fiscal year.

~~(e)-(h)~~ The attorney general shall adopt rules and regulations as deemed appropriate for the administration of this section.

~~(f)-(i)~~ No state funds appropriated to support the provisions of the ~~abuse, neglect or exploitation of persons~~ unit and expended to contract or enter into agreements with any third party shall be used by a third party to file any civil action against the state of Kansas or any agency of the state of Kansas. Nothing in this section shall prohibit the attorney general from initiating or participating in any civil action against any party.

~~(g)-(j)~~ The attorney general may contract or enter into agreements with other agencies or organizations to provide services related to the *attorney general's duties under this section or to the investigation or litigation of findings related to abuse, neglect or exploitation of persons.*

~~(h)-(k)~~ Notwithstanding any other provision of law, nothing shall prohibit the attorney general or the unit from distributing or utilizing only that information obtained pursuant to a confirmed case of abuse, neglect or exploitation or cases in which there is reasonable suspicion to believe abuse, neglect or exploitation has occurred pursuant to this section with any third party ~~contracted with by~~ *under contract or agreement with the attorney general to carry out the provisions of this section.*

(l) *As used in this section:*

(1) *"Adult" means any person 18 years of age or older; and*

(2) *"state agency" means the Kansas department for children and families, Kansas department for aging and disability services or Kansas department of health and environment.*

Sec. 4. K.S.A. 2015 Supp. 38-2223, 38-2226 and 75-723 are hereby repealed.

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

Approved May 6, 2016.

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CHAPTER 54

SENATE BILL No. 390

AN ACT concerning the state banking code; relating to the state bank commissioner; amending K.S.A. 2015 Supp. 9-519, 9-534, 9-701, 9-801, 9-802, 9-803, 9-804, 9-808, 9-809, 9-811, 9-812, 9-814, 9-815, 9-816, 9-901a, 9-902, 9-903, 9-904, 9-906, 9-907, 9-1101, 9-1102, 9-1104, 9-1111, 9-1112, 9-1114, 9-1122, 9-1124, 9-1127c, 9-1130, 9-1137, 9-1213, 9-1304, 9-1401, 9-1402, 9-1405, 9-1408, 9-1504, 9-1506, 9-1601, 9-1607, 9-1609, 9-1611, 9-1704, 9-1712, 9-1715, 9-1720, 9-1721, 9-1722, 9-1724, 9-1807, 9-1902, 9-1905, 9-1906, 9-1907, 9-1908, 9-1909, 9-1910, 9-1915, 9-2007, 9-2011, 9-2104, 9-2107 and 9-2108 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 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.

(b) (1) “Bank holding company” means any company *that*:

(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~~ *that* 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~~ *that* is or becomes a bank holding company by virtue of this act;

(C) ~~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 the company’s ownership or control of shares acquired by the company in

connection with 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 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 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 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 the company's shareholders.

(c) "Company" means any corporation, limited liability company, trust, 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, 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).

(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.

(e) "Kansas bank" means any bank, as defined by subsection (a), ~~which that~~, 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 charter location in Kansas.

(f) "Kansas bank holding company" means a bank holding company, as defined by subsection (b), with total subsidiary bank deposits in Kansas ~~which that~~ exceed the bank holding company's subsidiary bank deposits in any other state.

(g) "Out-of-state bank holding company" means any holding company ~~which that~~ is not a Kansas bank holding company as defined in subsection (f).

(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. 2. K.S.A. 2015 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 of the applicant are operated in a safe, sound and prudent manner.

(b) Whether the subsidiary banks of the applicant have provided adequate and appropriate services to their communities, including services contemplated by 12 U.S.C. § 2901 et seq.

(c) Whether the applicant proposes to provide adequate and appropriate services, including services contemplated by 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~~ *the applicant's* 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. 3. K.S.A. 2015 Supp. 9-701 is hereby amended to read as follows: 9-701. Unless otherwise clearly indicated by the context, the following words when used in the state banking code, for the purposes of 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. “*Business of banking*” shall not include any activity conducted by a student bank.

(c) “Trust company” means a trust company incorporated under the laws of Kansas and which does not accept deposits.

(d) “Commissioner” means the Kansas state bank commissioner.

(e) “Executive officer” 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) “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) “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) “Savings deposit” means a 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.

(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.

(j) “Municipal corporation” means any city incorporated under the laws of Kansas.

(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.

(l) “Certificate of authority” means a 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 provided by law.

(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~~ *those persons or entities* for compensation as a traditional incident to their regular business activities.

(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.

(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.

(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. 4. K.S.A. 2015 Supp. 9-801 is hereby amended to read as follows: 9-801. (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 a 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, ~~and;~~

(4) the name selected for the trust company is different *or substantially dissimilar* 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)(5)~~ (5) the articles of incorporation contain the names and addresses of ~~its~~ *the bank's or the trust company's* stockholders and the amount of common stock subscribed by each. The articles of incorporation may contain such other provisions as are consistent with the general corporation code.

(d) *Any bank or trust company may request an exemption from the commissioner from the provisions of subsections (c)(3) and (c)(4).*

~~(d)(e)~~ (e) 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)(f)~~ (f) 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)~~(g) 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)~~(h) 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)~~(i) 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. 5. K.S.A. 2015 Supp. 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 the bank's or trust company's articles of incorporation with the Kansas secretary of state's office from which time 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~~ *their* organization, until such bank or trust company has secured the approval of the state banking board and the authorization of the 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. 6. K.S.A. 2015 Supp. 9-803 is hereby amended to read as follows: 9-803. (a) Any bank ~~whose~~ *with* articles of incorporation ~~has~~ *that have* lapsed, or hereafter shall lapse, may renew and extend 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~~ *with* articles of incorporation *that* have lapsed or terminated by the expiration of time and ~~whose~~ *such bank's or trust company's* 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. 7. K.S.A. 2015 Supp. 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.

(c) If the commissioner finds, 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, if required by K.S.A. 9-801~~(e)~~(i), 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 *has been* paid in as required by law, and that ~~it~~ *the bank or trust company* is authorized to transact a general banking or trust business as provided by law.

Sec. 8. K.S.A. 2015 Supp. 9-808 is hereby amended to read as follows: 9-808. (a) ~~Upon the affirmative vote of not less than 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 2/3 of the institution's 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 transcript of the minutes of the meeting of ~~its~~ *the institution's* stockholders showing approval of the proposed conversion;

(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;

(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~~ *that approving the conversion* 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 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 the Kansas corporate code, shall be filed with the Kansas secretary of state's office.

(e) 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.

(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.

(g) In any conversion authorized by this section the corporate existence of the national bank, federal savings association or federal savings bank 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.

(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.

Sec. 9. K.S.A. 2015 Supp. 9-809 is hereby amended to read as follows: 9-809. (a) ~~Upon the affirmative vote of not less than 2/3 of its outstanding voting stock,~~ Any state bank may convert to a national bank *upon the affirmative vote of not less than 2/3 of the bank's outstanding voting stock.*

(b) The state bank shall provide a copy of the application submitted to the comptroller of currency to the commissioner within 10 days after the date the state bank 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) 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 Kansas secretary of state's office.

Sec. 10. K.S.A. 2015 Supp. 9-811 is hereby amended to read as follows: 9-811. No financial institution ~~whose~~ *with* 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, maintains only one office that accepts deposits and does not engage in the business of making commercial loans.

Sec. 11. K.S.A. 2015 Supp. 9-812 is hereby amended to read as follows: 9-812. (a) No bank or trust company shall change its name until such name change has been submitted to and approved by the 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~~ *any bank or branch bank*.

(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 *or trust company* 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. 12. K.S.A. 2015 Supp. 9-814 is hereby amended to read as follows: 9-814. (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 *that*:

(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;~~ and

(4) *the name selected for a trust company is different or substantially dissimilar from any other trust company doing business in this state.*

(c) *Any bank or trust company may request an exemption from the commissioner from the provisions of subsection (b)(3) or (b)(4).*

~~(c)~~(d) 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)~~(e) 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.

Sec. 13. K.S.A. 2015 Supp. 9-815 is hereby amended to read as follows: 9-815. (a) Any applicant making application under article 8 of chap-

ter 9 of the Kansas Statutes Annotated, and amendments thereto, shall pay to the commissioner a fee in an amount established pursuant to K.S.A. 2015 Supp. 9-1726, 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~~ *the members* actually are engaged in performing ~~their~~ duties as members of ~~such~~ *the state banking* board and shall be compensated *from such funds* all ~~their~~ *the* actual and necessary expenses incurred in the performance of ~~such~~ *the members'* duties ~~from such funds~~.

Sec. 14. K.S.A. 2015 Supp. 9-816 is hereby amended to read as follows: 9-816. (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~~ *the banks'* 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.

Sec. 15. K.S.A. 2015 Supp. 9-901a is hereby amended to read as follows: 9-901a. (a) For purposes of this section: (1) “Capital” means the total of the aggregate par value of ~~its~~ *a bank's or trust company's* 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) (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~~ *any* successor.

(d) All banks shall maintain a capital ratio of at least 5% of equity capital to total assets at all times.

(e) Any bank that relocates its main office from one city to another pursuant to K.S.A. 2015 Supp. 9-814, 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.

(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. 16. K.S.A. 2015 Supp. 9-902 is hereby amended to read as fol-



laws: 9-902. (a) The common and preferred stock of any bank or trust company hereafter created shall be divided into shares of \$1 each, or 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) Any bank or trust company may reduce the number of shares of common stock and replace ~~them~~ *the shares of common stock* with a like amount of *shares of preferred stock*, as long as the total dollar amount of capital stock is not changed. In lieu of reducing the number of shares of common stock, the bank may reduce the par value of the common stock and ~~replace it with~~ *issue* 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. 17. K.S.A. 2015 Supp. 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. 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. 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.

(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. 18. K.S.A. 2015 Supp. 9-904 is hereby amended to read as follows: 9-904. (a) With prior approval of the commissioner, a bank or trust company may reduce the amount of its capital stock account. No such reduction shall be approved unless the 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 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;

(4) the proposed reduction poses no significant risk to the financial stability, safety or soundness of the institution;

(5) the bank's or trust company'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) 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. 19. K.S.A. 2015 Supp. 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 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~~ *the par value of the capital stock*.

(c) Within 15 days of receipt of the impairment notice from the commissioner, the board of directors of the bank or trust company shall levy an assessment on the common stockholders sufficient to restore the capital stock.

(d) A bank or trust company may reduce its capital stock to the extent of the impairment, if such reduction is conducted pursuant to the requirements of K.S.A. 9-904, and amendments thereto.

Sec. 20. K.S.A. 2015 Supp. 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 as required by K.S.A. 9-906, and amendments thereto, the directors of the bank or trust company may sell the stock of such delinquent stockholder, or so much of the stock as necessary, to satisfy the assessment and any related incidental expenses within 120 days of the bank or trust company's receipt of impairment notice.

(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~~ *the stock* 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. 21. K.S.A. 2015 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, the following powers:

(1) To receive and to pay interest on deposits. The commissioner,

with approval of the state banking board, may by rules and regulations fix maximum rates of interest to be paid on deposit accounts other than accounts for public moneys;

(2) to buy, sell, discount or negotiate domestic currency, gold, silver, foreign 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 make all types of loans, subject to the loan limitations contained in the state banking code;

(4) (A) to buy and sell: (i) Bonds, securities; or other evidences of indebtedness, including temporary notes, of: *the United States of America*;

~~(i) (ii) bonds, securities or other evidences of indebtedness, including temporary notes, fully guaranteed, directly or indirectly, by the United States of America or those fully guaranteed, directly or indirectly, by it;~~

or  
~~(ii) general obligations~~ (iii) *general obligation bonds* 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 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 limited to buying and selling without recourse marketable obligations evidencing indebtedness of any person, copartnership, association or corporation. 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;

(7) 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~~ *the bank's* 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~~ *the bank's* capital and surplus;

(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 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;

(11) to act as escrow agent;

(12) to subscribe to, acquire, hold and dispose of stock of a corporation ~~having as its purpose the acquisition, holding and disposition~~ *the purpose of which is to acquire, hold and dispose* 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;

(13) to purchase and sell securities and stock without recourse solely upon the order, and for the account, of customers;

(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~~ *the purpose of which is to acquire, hold and dispose* 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;

(15) to engage in financial future contracts on United States government and agency securities subject to such rules and regulations as the commissioner may prescribe pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices;

(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;

(17) to buy, hold and sell shares of an open-end investment company 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;

(18) subject to the prior approval of the commissioner and subject to such rules and regulations as are adopted by the 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) Selling or distributing stocks, bonds, debentures, notes, mutual funds and other securities; (B) issuing and underwriting municipal bonds; (C) organizing, sponsoring and operating mutual funds; or (D) acting as a securities broker-dealer;

(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;

(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) 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 total* of the bank's capital stock, surplus, undivided profits, 100% *of the* allowance for loan and lease losses, capital notes and debentures and reserve for ~~contingency~~ *contingencies*, unless the bank has obtained the prior approval of the commissioner;

(B) the cash surrender value of life insurance policies, in the aggre-

gate from all companies, cannot at any time exceed 25% of the *total of the bank's capital stock, surplus, undivided profits, 100% of the allowance for loan and lease losses, capital notes and debentures and reserve for contingency contingencies*, unless the bank has obtained the prior approval of the state bank commissioner; ~~and~~

(C) the limitations set forth in subparagraphs (A) and (B) shall not apply to any life insurance policy in place prior to July 1, 1993; *and*

(D) *for the purposes of subsections (a)(20)(A) and (a)(20)(B), intangibles, such as goodwill, shall not be included in the calculation of capital;*

(21) 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 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;

(22) to make loans to the bank's stockholders or the bank's controlling holding company stockholders on the security of the shares of the bank or the bank's controlling bank holding company, 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;

(23) to make investments in and loans to community and economic development entities as defined in K.S.A. 9-701, and amendments thereto, subject to the limitations prescribed by community reinvestment act pub. l. 95-128, title VIII, 91 Stat. 1147, 12 U.S.C. § 2901 et seq.;

(24) to participate in a school savings deposit program authorized under K.S.A. 9-1138, and amendments thereto;

(25) with prior approval of the commissioner, to control or hold an interest in a financial subsidiary.

(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~~ *the records* 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~~ *any* 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. 22. K.S.A. 2015 Supp. 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, including any building or buildings 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 the bank's or trust company's books not later than seven years after the real property's intended use for bank or trust purposes ends. 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.

(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 50% of ~~its unimpaired capital stock, surplus, undivided profits and capital notes and debentures~~ *and 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. For purposes of this subsection, intangibles, such as goodwill, shall not be included in the calculation of capital.* Any such excess shall be removed from the bank's or trust company's books unless approval is granted by the commissioner:

- (1) The book value of real estate plus all encumbrances thereon;
- (2) the book value of furniture and fixtures;
- (3) the book value of stock in a safe deposit company;
- (4) the book value of stock in a trust company; or

(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 subsection (a).

(f) Any bank or trust company may acquire or purchase real estate in

satisfaction of any debts due such bank or trust company, and may purchase real estate at judicial sales, 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~~ *carrying* the real estate as an asset for such extended period *will be to the advantage of the bank or trust company*. 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 pur-

chased 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. 23. K.S.A. 2015 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:

(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;

(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;

(C) a bonded warehouse receipt issued to the borrower by some other person;

(D) treasury bills, certificates of indebtedness or bonds or notes of, *or fully guaranteed by*, the United States of America or instrumentalities or agencies thereof ~~or those fully guaranteed by them~~;

(E) general obligation bonds or notes of the state of Kansas or any other state in the United States of America;

(F) general obligation bonds or notes of any Kansas municipality or quasi-municipality; or

(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 appraised value of the real estate shall equal at least twice the amount by which the borrower's total liability exceeds the 25% limit; and

(C) a portion of the borrower's total liability, equal to at least the amount by which the total liability exceeds the 25% limit, shall amortize within 20 years by regularly scheduled installment payments.

(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 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~~ *time deposits* are insured by the federal deposit insurance corporation, ~~time~~ *such* 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~~ *the borrowers'* 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~~ *that* are related directly or in-

directly 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% 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, inter-company 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% 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 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.

Sec. 24. K.S.A. 2015 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 the bank's certificate of authority and at one or more branch banks established and operated as provided in this section. 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 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 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 commissioner pursuant to K.S.A. 9-1602, and amendments thereto;

(b) establishment of a new branch *bank* or relocation of an existing branch ~~for eligible~~ banks:

(1) After first applying for and obtaining the approval of the commissioner, 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 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 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;

(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 that~~ 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) 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) any bank location which has been established and is being maintained by a bank at the time of ~~its~~ *the bank's* merger into or consolidation with another bank or at the time the bank's assets are purchased and the bank's liabilities are assumed by another bank may continue to be operated by the surviving, resulting or purchasing and assuming bank;

(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~~ *the use of the remote service unit* and the agreement of such bank or banks to share all costs, including a reasonable return on capital expenditures incurred in connection with 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 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. Withdrawals by means of “offline” systems shall not exceed \$300 per transaction and shall be restricted to individual not corporate or commercial accounts;

(i) 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;

(1) 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. 25. K.S.A. 2015 Supp. 9-1112 is hereby amended to read as follows: 9-1112. (a) No bank or *trust company* 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 or *trust company* shall sell, give or purchase any instrument, contract, security or other asset or asset dividend to or from:

- (1) Any employee or to 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.

This paragraph shall not apply to assignment of loans and related security agreements to or from a subsidiary of the bank's parent company.

(c) No bank shall acquire or make a loan on 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 otherwise specifically authorized.

(d) 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. 26. K.S.A. 2015 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 such bank's or trust company's board of directors.

(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 the date specified in the bank's or trust company's bylaws. A majority of the directors shall be residents of this state.

(c) If for any reason the meeting cannot be held on the date specified in the bylaws, the meeting shall be held on 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.

(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.

(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~~ *retained by the bank or trust company in the bank's or trust company's records after the election of any officer or director, for review by the commissioner's staff during the next examination.* 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. 27. K.S.A. 2015 Supp. 9-1122 is hereby amended to read as follows: 9-1122. (a) 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; *and*

(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 the bank's or trust company's hours of business. The bank or trust company shall post the resolution in a conspicuous place at the main office and all branch locations of the bank or trust company at least 15 days in advance of any closing or change in business hours. 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.

(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 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 bank or trust company business of any character. No bank or trust company shall be required to permit access to the bank's or trust company's safe, deposit vault or vaults on any such day. Where the terms of a contract 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.

(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 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. 28. K.S.A. 2015 Supp. 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 company. No bank shall invest more than 5% of ~~its~~ *the bank's* total assets in bank service companies.

Sec. 29. K.S.A. 2015 Supp. 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 company that performs any service under K.S.A. 9-1127b(c), (d) or (e), and amendments thereto, without the prior approval of the commissioner.

(b) No state bank shall invest in the capital stock of a bank service company that performs any service under authority of K.S.A. 9-1127b(f), and amendments thereto, and no bank service company shall perform any activity under K.S.A. 9-1127b(f), and amendments thereto, without the prior approval of the commissioner.

(c) In determining whether to approve or deny any application for prior approval under K.S.A. 9-1124 through 9-1127c, and amendments thereto, the commissioner is authorized to consider the financial and managerial resources and future prospects of the bank or banks and bank service company involved, including the financial capability of the bank to make a proposed investment under this act, and possible adverse af-

fects such as undue concentration of resources, unfair or decreased competition, conflicts of interest or unsafe or unsound banking practices.

(d) In the event the 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. 30. K.S.A. 2015 Supp. 9-1130 is hereby amended to read as follows: 9-1130. (a) Every bank and trust company shall retain 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 such bank's or trust company's:

- (1) Minute books of ~~its~~ *the* stockholders and directors;
- (2) capital stock ledger and capital stock certificate ledger or stubs;
- (3) general ledger or the record kept in lieu thereof;
- (4) daily statements of condition; and

(5) all records which the 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 *prescribe*, 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 such bank's or trust company's class, and shall, after 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 such bank's or trust company's records, and records at any time in 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 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~~ *the provisions of this section* 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. 31. K.S.A. 2015 Supp. 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~~ *that* functions ~~are~~ to evaluate and ~~seek~~ *seeks* 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) Except as provided in subsection (c):

(1) Compliance review documents are confidential and are not dis-

coverable 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.

(c) Subsection (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 of such information.

(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. 32. K.S.A. 2015 Supp. 9-1213 is hereby amended to read as follows: 9-1213. When any drawee bank shall be presented with a draft drawn on ~~it~~ *the drawee bank* 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. 33. K.S.A. 2015 Supp. 9-1304 is hereby amended to read as follows: 9-1304. (a) Upon the approval of the commissioner, the receiver or liquidator or the board of directors of any bank which may be closed because of ~~its~~ *the bank's* 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~~ *the bank's* assets as security.

(b) The assets, or any portion thereof, of any bank which may close because of ~~its~~ *the bank's* 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. 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 the state banking code and existing laws.

Sec. 34. K.S.A. 2015 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~~ *the governing body's* minutes the banks, savings and loan associations and savings banks which shall serve as depositories of ~~its~~ *the governing body's* 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~~ *the officer's* 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~~ *the governing body's* 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~~. *If the officer having custody is unable to obtain satisfactory security at a depository within the county or counties where the governing body is located, then the officer may deposit funds elsewhere. If the governing body's funds are deposited elsewhere, the officer shall* serve notice in writing on the governing body showing the names and locations of ~~such~~ *the* banks, savings and loan associations and savings banks where ~~such~~ *the* funds are deposited, and upon so doing the officer having custody of ~~such~~ *the* 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 agree-

ment 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~~ *the parties'* official records, and except for the municipal corporations or quasi-municipal corporations, approved by ~~their~~ *the* boards of directors or ~~their~~ loan committees, which approvals shall be reflected in the minutes of the boards or committees.

Sec. 35. K.S.A. 2015 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 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.

(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 section, securities, security entitlements, financial assets and securities accounts owned by the depository institution directly or indirectly through ~~its~~ *the institution's* agent or trustee holding securities on ~~its~~ *the institution's* 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~~ *the bonds'* 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 commissioner;

(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 mort-

gages 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;

(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.

(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.

(e) 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 K.S.A. 2015 Supp. 9-1726, 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. 36. K.S.A. 2015 Supp. 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 *federal* 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 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 branch office in this state;
- (4) a trust company incorporated under the laws of this state or another state; or
- (5) the federal home loan bank of Topeka.

(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 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 from depositing securities, security entitlements and financial assets 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 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;
- (2) common controlling shareholders;
- (3) common majority of the board of directors; 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 section, the state treasurer shall make a charge for such service which is equivalent to the reasonable and customary charge made therefor.

(h) The custodial agreement shall be in writing, executed by all parties thereto, maintained as part of ~~their~~ *the parties'* official records, and except for the municipal corporations or quasi-municipal corporation, approved by ~~their~~ *the* boards of directors or ~~their~~ *the* loan committees, which approvals shall be reflected in the minutes of the boards or committees.

(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 *according to the terms of the security agreement* shall immediately take action to enable bonds and securities pledged to secure ~~such the~~ deposit to be sold to satisfy ~~its the bank's or association's~~ obligation to the municipal or quasi-municipal corporation.

Sec. 37. K.S.A. 2015 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) "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 the agency's~~ 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;

(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

(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. 38. K.S.A. 2015 Supp. 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 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 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. 39. K.S.A. 2015 Supp. 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~~ *the lessor's* employees, one of whom shall be an officer, when:

(1) The lessee has not paid the rent within 30 days after the same is due; 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 shall retain such contents for at least 90 days after opening the box. The lessor then may sell any part or all of the contents at public sale 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 the rent due, the costs of opening and repairing the box, 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 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. 40. K.S.A. 2015 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, subject to such conditions as the commissioner may require, to 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, 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 ~~the~~ *the bank* 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 fiduciary capacity and to perform any act as a fiduciary which trust companies incorporated under the laws of this state 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.

(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 26 U.S.C. § 408;

(B) trusts established pursuant to 26 U.S.C. § 401; and

(C) medical savings accounts established pursuant to 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 26 U.S.C. § 223, without being issued a special permit pursuant to subsection (a).

(d) Any state bank having been granted trust authority by the commissioner 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 K.S.A. 2015 Supp. 9-1726, 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. 41. K.S.A. 2015 Supp. 9-1607 is hereby amended to read as follows: 9-1607. (a) Any bank or trust company, when acting as a fiduciary or a co-fiduciary with others and with the consent of its co-fiduciary or co-fiduciaries, if any, ~~who~~ *that* 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. 42. K.S.A. 2015 Supp. 9-1609 is hereby amended to read as follows: 9-1609. (a) Any bank or trust company authorized to act as fiduciary may establish common trust funds for the purpose of furnishing investments to:

- (1) Such bank or trust company as fiduciary;
- (2) such bank or trust company and others, as co-fiduciaries;
- (3) another state or national bank or trust company, as fiduciary, which is a subsidiary of the same bank holding company of which ~~it~~ *the bank or trust company* is a subsidiary, as such terms are defined in K.S.A. 9-519, and amendments thereto; or
- (4) another state or national bank or trust company with which ~~it~~ *the*

*bank or trust company* is affiliated through common control, as defined in K.S.A. 9-1612, and amendments thereto.

(b) Any bank or trust company authorized to act as fiduciary may, as such fiduciary or co-fiduciary, 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 co-fiduciaries, the bank or trust company procures the consent of its co-fiduciaries to such investment.

Sec. 43. K.S.A. 2015 Supp. 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 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~~ *the bank's or trust company's* own stock or obligations, or property acquired from the bank or trust company; or

(b) sell or transfer, by loan or otherwise, property held as fiduciary to the bank or trust company; or

(c) purchase for investment the stock or obligations of, or property from, the bank or trust company.

Sec. 44. K.S.A. 2015 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 to 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. 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. 45. K.S.A. 2015 Supp. 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 disclosed except upon the written approval of the 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.

(d) Any bank or trust company receiving notice 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.

(f) As used in this section, “information” means, but is not limited to, all documents, oral and written communication and all electronic data.

(g) Any person ~~who~~ *that* 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 K.S.A. 2015 Supp. 9-1726, 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. 46. K.S.A. 2015 Supp. 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 banks to engage in any activity in which 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~~ *with* deposits ~~are~~ insured by the United

States government is lawfully authorized to engage in at the time authority is granted.

(2) 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 any trust company or trust department, 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.

(b) (1) The commissioner shall exercise the power granted in subsection (a) by the issuance of a special order if the commissioner deems ~~it~~ *such action is* reasonably required to: (A) Preserve and protect the welfare of a particular institution; 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 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) The powers contained in this section shall be in addition to any and all other powers granted to the commissioner.

Sec. 47. K.S.A. 2015 Supp. 9-1720 is hereby amended to read as follows: 9-1720. (a) Except with the *prior written* 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)(1) A person, acting directly or indirectly or through concert with one or more persons, to acquire control of any bank or trust company; or~~

~~(b)(2) 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 a bank to merge or consolidate with any bank or institution, or either directly or indirectly acquire the assets of, or assume the liability to pay any deposit made in any other bank or institution, referred to hereinafter as a merger transaction; or~~

(3) a trust company to merge or consolidate with any trust company, or either directly or indirectly acquire the assets of any other trust company, referred to hereinafter as a merger transaction.

(b) A trust company may merge or consolidate with a trust company, with the prior written approval of the commissioner chartered by:

(1) The comptroller of the currency; or

(2) another state. An application filed pursuant to this subsection shall be subject to the provisions of K.S.A. 9-1721, 9-1722 and 9-1724, and amendments thereto.

Sec. 48. K.S.A. 2015 Supp. 9-1721 is hereby amended to read as follows: 9-1721. (a) ~~The party~~ person proposing to acquire, control or effectuate a bank or trust company undertaking a merger transaction, hereinafter referred to as the applicant, shall ~~apply in writing for approval from~~ file an application with the commissioner at least 60 days prior to the proposed change of control or merger transaction. If the commissioner does not 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 time period to act on an application may be further extended if the commissioner determines that 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.

(b) Upon the filing of an application, the commissioner shall make an investigation of ~~each party to~~ the applicant for 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~~ *the applicant* 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~~ *the applicant* or of any of the proposed management personnel *of the bank or trust company or resulting bank or trust company* 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. 49. K.S.A. 2015 Supp. 9-1722 is hereby amended to read as follows: 9-1722. (a) ~~An~~ *A change of control* 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 or for whom~~ the change of control ~~or merger transaction~~ is to be made, including the material business activities and affiliations during the past five years and a description of any material pending legal or administrative proceedings 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 or for whom~~ the change of control ~~or merger transaction~~ is to be made, 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 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 change of control ~~or merger transaction~~ and the manner in which 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 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 such purpose, 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 applicant may have to liquidate the bank or trust company or to make any other major change in ~~its~~ *the bank's or trust company's* business or corporate structure or management;

(6) the identification of any person employed, retained or to be compensated by 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 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 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

(9) any additional relevant information in the form and manner prescribed by the commissioner.

*(b) A merger transaction application filed pursuant to K.S.A. 9-1721, and amendments thereto, shall contain the following information:*

*(1) The structure, terms and conditions and financing arrangements of the proposed merger transaction;*

*(2) a complete and final copy of the merger transaction agreement;*

*(3) certified copies of the stockholder proceedings showing a majority of the outstanding voting stock of the banks or trust companies in the merger transaction was voted in favor of the merger transaction;*

*(4) a list of directors and senior executive officers of the resulting bank or trust company;*

*(5) one year pro forma statements of financial conditions and future prospects of the resulting bank or trust company, including capital positions;*

*(6) how the merger transaction will meet the convenience and needs of the community; and*

*(7) any other relevant information in the form and manner prescribed by the commissioner.*

~~(b)~~*(c)* 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 *any* 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)~~(d) The commissioner may accept an application filed with the federal reserve bank or federal deposit insurance corporation in lieu of a ~~statement~~ *an application* filed pursuant to subsection (a). The commissioner may, in addition to such application, request additional relevant information.

~~(d)~~(e) At the time of filing an application pursuant to K.S.A. 9-1721, and amendments thereto, or an application filed pursuant to subsection ~~(c)~~ (d), the applicant shall pay to the commissioner a fee in an amount established pursuant to K.S.A. 2015 Supp. 9-1726, 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. 50. K.S.A. 2015 Supp. 9-1724 is hereby amended to read as follows: 9-1724. (a) The provisions of K.S.A. 9-1720 through 9-1724, and amendments thereto, shall not apply to the merger transaction of a bank or trust company when the surviving entity is a national banking association or other *state or* federally chartered financial institution *or a trust company*, except that the bank *or trust company* shall provide written notification to the commissioner of such a merger, consolidation or transfer of assets and liabilities at least 10 days prior to ~~its~~ *the* consummation of any such transaction.

(b) Not more than 15 days following any merger transaction, any bank or trust company that will cease to exist shall surrender such bank's or trust company's state certificate of authority or charter and shall certify in writing that the proper instruments have been executed and filed in accordance with K.S.A. 17-6003, and amendments thereto.

(c) Notice of the merger transaction shall be published twice in a newspaper of general circulation in each city or county in which the bank *or trust company* is located, or the newspaper nearest such city or county and a certified copy of 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 14<sup>th</sup> day after the date of the first publication or, if the newspaper does not publish on the 14<sup>th</sup> day, then the date that is the closest to the 14<sup>th</sup> 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.

Sec. 51. K.S.A. 2015 Supp. 9-1807 is hereby amended to read as follows: 9-1807. (a) If the commissioner finds that any bank or trust company is engaging, has engaged or is about to engage in an unsafe or unsound practice or if the commissioner finds that any bank or trust company is violating, has violated or 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. The notice of charges shall contain a statement of the facts 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 30 days nor later than 60 days after service of such notice.

(b) Unless the bank or trust company shall appear at the hearing, 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 require the bank or trust company and such bank's or trust company's directors, officers, employees or agents to cease and desist 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 by the state banking board.

(c) Whenever the commissioner finds that a bank's or trust company's unsafe or unsound practice or violation, or the continuation thereof, is likely to cause insolvency, substantial dissipation of assets or earnings or is likely to otherwise seriously prejudice the interests of ~~its~~ *the bank's depositors or trust company's clients*, the commissioner may issue a temporary order requiring the bank or trust company to cease and desist from any such practice or violation. 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 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. 52. K.S.A. 2015 Supp. 9-1902 is hereby amended to read as follows: 9-1902. A bank or trust company shall be deemed to be insolvent when: (a) The actual cash market value of a bank's or trust company's assets is insufficient to pay 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; or (b) ~~when it the bank or trust company~~ is unable to meet the demands of its creditors in the usual and customary manner.

Sec. 53. K.S.A. 2015 Supp. 9-1905 is hereby amended to read as follows: 9-1905. (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~~ *the Kansas general corporation code*, and as may be ordered by the court.

(1) The receiver shall be entitled to reasonable compensation subject to the approval of the district court.

(2) Upon written application made within 30 days after the filing in district court, the court may appoint as receiver any person ~~whom~~ *that* 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.

(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. Not-

withstanding 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. 54. K.S.A. 2015 Supp. 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, other than the federal deposit insurance corporation, shall take charge of any bank or trust company and all of ~~its~~ *the bank's or trust company's* assets and property, and liquidate the affairs and business thereof for the benefit of ~~its~~ *the* depositors, creditors and stockholders of *the bank or trust company*. The receiver may 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.

(b) In distributing assets of the 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. 55. K.S.A. 2015 Supp. 9-1907 is hereby amended to read as follows: 9-1907. The federal deposit insurance corporation or ~~its~~ *any* successor, hereby is authorized and empowered to be and act without bond as receiver of any bank, the deposits in which are to any extent insured by such corporation. If the federal deposit insurance corporation, or ~~its~~ *any* successor, accepts the appointment, then the federal deposit insurance corporation, or ~~its~~ *any* successor, shall succeed to all the rights, titles, powers and privileges of the bank and of any stockholder, member, account holder, depositor, officer or director of the bank with respect to the bank.

Sec. 56. K.S.A. 2015 Supp. 9-1908 is hereby amended to read as follows: 9-1908. Whenever the federal deposit insurance corporation, or ~~its~~ *any* successor, shall accept the appointment as receiver for any bank the possession of and title to all of the assets, business and property of every kind of such bank shall pass to and vest in the federal deposit

insurance corporation, or ~~its~~ *any* successor, as receiver without the execution of any instruments of assignment, endorsement, transfer or conveyance.

Sec. 57. K.S.A. 2015 Supp. 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 filed, then ~~it~~ *the claim* shall be barred from participation in the estate and assets of any such bank or trust company.

Sec. 58. K.S.A. 2015 Supp. 9-1910 is hereby amended to read as follows: 9-1910. Upon the affirmative vote of  $\frac{2}{3}$  of the outstanding voting stock, the shareholders of a bank or trust company may transfer all of ~~its~~ *the bank's or trust company's* 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. 59. K.S.A. 2015 Supp. 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 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~~ *the bank* was in failing circumstances, for the purposes of this section. Every person ~~who shall violate~~ *that violates* the provisions of this section shall be responsible individually for such deposits so received, 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. 60. K.S.A. 2015 Supp. 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~~ *or any successor, that* fails to comply with the provisions of the state banking code, upon conviction shall be guilty of a class A, nonperson misdemeanor.

Sec. 61. K.S.A. 2015 Supp. 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~~ *the individual, firm or corporation* is engaged in the banking business or trust business



without first having obtained authority from the commissioner. Any such individual or member of any such firm or officer of any such corporation violating this section, upon conviction shall be guilty of a class A, non-person misdemeanor.

Sec. 62. K.S.A. 2015 Supp. 9-2104 is hereby amended to read as follows: 9-2104. (a) No executor, administrator, conservator or trustee holding trust company stock 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.

(c) The person owning the stock or the person pledging such stock shall be deemed the person liable as a stockholder in the trust company.

(d) Any executor, administrator, conservator or trustee holding trust company stock shall be liable 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~~ *that* has pledged such person's stock as collateral security may represent the same at all meetings and may vote accordingly as a shareholder.

Sec. 63. K.S.A. 2015 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 commissioner under K.S.A. 9-1602, and amendments thereto, 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, any bank that has been granted trust authority or any trust company, regardless of where such bank or trust company is located, 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; *and*

(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 ~~having its~~ *with a* 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; *and*

(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) proof of publication of notice that the applicant intends to file or has filed an application pursuant to this section. The notice shall be published in a newspaper of 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, ~~the proposed date of filing of the application with the commissioner~~ 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; 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 co-fiduciary, each surviving settlor of a trust, each ward of a guardianship, each person ~~who~~ *that* 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 pursuant to K.S.A. 2015 Supp. 9-1726, 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, or designee, in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.

(h) Upon the filing of a complete application with the commissioner, the commissioner shall make or cause to be made, a careful examination and investigation 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.

(i) The commissioner shall render approval or disapproval of the application within 90 days of receiving a complete application.

(j) 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.

(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 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.

(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 ~~the court~~ *the court* 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 [the] 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 shall be paid by the originating trustee or financial institution entering into the agreement.

Sec. 64. K.S.A. 2015 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 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 the form and manner prescribed by the commissioner and provide the following documents:

(1) 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;

(3) proof of publication of notice that the applicant intends to file or has filed an application pursuant to this section. The notice shall be published in a newspaper 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. 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 *same or substantially similar to 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 pursuant to K.S.A. 2015 Supp. 9-1726, 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 or designee in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.

*(e) Upon the request of any trust company proposing to relocate an existing trust service office less than one mile from the trust company's existing location, the commissioner may exempt such trust company from the requirements of this section.*

~~(e)~~(f) Upon the filing of a complete application with the commissioner, the commissioner shall make or cause to be made, a careful examination and investigation. 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.

~~(f)~~(g) 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 state banking board pursuant to this section is subject to review in accordance with the Kansas judicial review act.

~~(g)~~(h) 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 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.

New Sec. 65. (a) A bank, savings bank, savings and loan association or credit union may conduct a savings promotion in which promotion participants deposit money into a savings account or other savings program in order to obtain entries and participate in the promotion, provided that the bank, savings bank, savings and loan association or credit union:

(1) Conducts the promotion in a manner so as to ensure that each entry has an equal chance of winning the designated prize;

(2) fully discloses the terms and conditions of the promotion to each of its account holders;

(3) maintains records sufficient to facilitate an audit of the promotion;

(4) ensures that only account holders 18 years of age and older are permitted to participate in the promotion;

(5) does not require any consideration; and

(6) offers an interest rate and charges fees on any promotion-quali-

fyng account that are approximately the same as those on a comparable account that does not qualify for the promotion.

(b) (1) The state bank commissioner is authorized to promulgate rules and regulations as necessary to effectuate the provisions of this section pertaining to banks, savings banks and savings and loan associations. Such rules and regulations shall be promulgated by July 1, 2017.

(2) The credit union administrator is authorized to promulgate rules and regulations as necessary to effectuate the provisions of this section pertaining to credit unions. Such rules and regulations shall be promulgated by July 1, 2017.

(3) The state bank commissioner and credit union administrator shall collaborate in order to promulgate rules and regulations affecting account holders that are consistent, other than the type of institution to which they apply.

Sec. 66. K.S.A. 2015 Supp. 9-519, 9-534, 9-701, 9-801, 9-802, 9-803, 9-804, 9-808, 9-809, 9-811, 9-812, 9-814, 9-815, 9-816, 9-901a, 9-902, 9-903, 9-904, 9-906, 9-907, 9-1101, 9-1102, 9-1104, 9-1111, 9-1112, 9-1114, 9-1122, 9-1124, 9-1127c, 9-1130, 9-1137, 9-1213, 9-1304, 9-1401, 9-1402, 9-1405, 9-1408, 9-1504, 9-1506, 9-1601, 9-1607, 9-1609, 9-1611, 9-1704, 9-1712, 9-1715, 9-1720, 9-1721, 9-1722, 9-1724, 9-1807, 9-1902, 9-1905, 9-1906, 9-1907, 9-1908, 9-1909, 9-1910, 9-1915, 9-2007, 9-2011, 9-2104, 9-2107 and 9-2108 are hereby repealed.

Sec. 67. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 6, 2016.

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## CHAPTER 55

### HOUSE BILL No. 2558

AN ACT concerning elections; amending K.S.A. 2015 Supp. 25-21a01 and 80-2508 and repealing the existing sections.

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

New Section 1. No city or county shall regulate or prohibit canvassing, polling, soliciting or otherwise approaching private residences for the purpose of distributing campaign literature or campaigning for a candidate for an elected office.

Sec. 2. K.S.A. 2015 Supp. 25-21a01 is hereby amended to read as follows: 25-21a01. (a) On and after January 1, 2017, all primary elections for members of the governing body and other elected officials of any municipality shall be held on the first Tuesday in August of 2017 and on such date thereafter of odd-numbered years, and all general elections for

members of the governing body and other elected officials of any municipality shall be held on the Tuesday succeeding the first Monday in November of 2017 of odd-numbered years and on such date thereafter.

(b) The term of members of governing bodies and other elected officials of any municipality that would expire at any time in 2017 shall expire on the second Monday in January of 2018, when newly elected members of the governing body and other newly elected officials shall take office.

(c) The governing body of the municipality shall establish by ordinance or resolution terms of office of elected officials to comply with this act.

(d) Primary elections for any municipality shall be conducted as provided in K.S.A. 25-202, and amendments thereto. A primary election shall only be required as provided in K.S.A. 25-2021 and 25-2108a, and amendments thereto, or as otherwise required by law.

(e) The filing deadline for all candidates for any municipality, unless otherwise provided by law, shall be as provided in K.S.A. 25-205, and amendments thereto.

(f) Any person who meets the qualifications for the office sought may become a candidate for municipal office by filing a declaration of intent to become a candidate with the county election officer accompanied by a filing fee of \$20.

(g) “Municipality” means: (1) Any city, consolidated city-county created under K.S.A. 12-340 et seq., and amendments thereto, and K.S.A. 2015 Supp. 12-360 et seq., and amendments thereto, school district, any board of public utilities created under K.S.A. 13-1220 et seq., and amendments thereto, community college, drainage district, extension district created under K.S.A. 2-623 et seq., and amendments thereto, irrigation district, improvement district created under K.S.A. 19-2753 et seq., and amendments thereto, water district created under K.S.A. 19-3501 et seq., and amendments thereto, and hospital district created under K.S.A. 80-2501 et seq., and amendments thereto.

(2) The term does not include any special district where the election of members of the governing body is conducted at a meeting of the special district.

(h) Cities and hospital districts may provide for elections of elected officials in even-numbered years in order to provide for staggered terms of office or for three-year terms of office for elected officials.

Sec. 3. K.S.A. 2015 Supp. 80-2508 is hereby amended to read as follows: 80-2508. (a) Subject to the limitations provided in this act, any of the four methods described in this section may be used in the selection of members of boards. The four methods are:

(1) Elections of board members shall be held at the annual meeting



of the qualified electors of the hospital district for the positions on the board which are to expire in such year.

(2) Board members shall be appointed by the governing bodies of the political subdivisions joining in the operation and maintenance of the hospital.

(3) (A) Elections of board members for four-year terms shall be held on the Tuesday following the first Monday in November of odd-numbered years for the positions on the board which are to expire in such year. All positions shall be at-large. Each board member shall take office on the second Monday in January following the date of election.

(B) Any person desiring to become a candidate for board member shall file with the county election officer of the county in which the political subdivisions joining in the operation and maintenance of the hospital, or the greater portion of the area thereof, are located, before the filing deadline specified in K.S.A. 25-2109, and amendments thereto, either a petition signed by not less than 50 electors eligible to vote for a candidate or a declaration of intent to become a candidate together with a filing fee in the amount of \$20.

(C) The county election officer of the county specified in paragraph (B) shall prepare the ballots for such election including ballots for that portion of the district located in any other county. The county election officers of each county shall conduct the election in their respective counties, and the board of county canvassers of each such county shall certify the results of the votes cast in its county to the board of county canvassers in the county in which the ballots for the election were prepared.

(D) Ballots shall be prepared in such manner that each voter is instructed to vote for the same number of candidates as the number of positions to be filled. Such instruction shall specify that the voter may vote for fewer than the total number of candidates for which the voter is qualified to vote.

(4) (A) Elections of board members for *three-year or* four-year terms shall be held on the Tuesday succeeding the first Monday in November of each ~~odd-numbered~~ year for the positions on the board which are to expire in such year. All positions shall be at-large. Each board member shall take office on the second Monday in January.

(B) Any person desiring to become a candidate for board member shall file with the county election officer of the county in which the political subdivisions joining in the operation and maintenance of the hospital, or the greater portion of the area thereof, are located, before the filing deadline specified in K.S.A. 25-2109, and amendments thereto, either a petition signed by not less than 50 electors eligible to vote for a candidate or a declaration of intent to become a candidate together with a filing fee in the amount of \$20.

(C) The county election officer of the county specified in paragraph (B) shall prepare the ballots for such election including ballots for that

portion of the district located in any other county. The county election officers of each county shall conduct the election in their respective counties, and the board of county canvassers of each such county shall certify the results of the votes cast in its county to the board of county canvassers in the county in which the ballots for the election were prepared.

(D) Ballots shall be prepared in such manner that each voter is instructed to vote for the same number of candidates as the number of positions to be filled. Such instruction shall specify that the voter may vote for fewer than the total number of candidates for which the voter is qualified to vote.

(b) If the method of selection of members of the board of any hospital is the method provided for in subsection (a)(1) or (2), such method of selection may be changed to the method provided for in subsection (a)(3) or (4) by majority vote of the qualified electors voting at an annual meeting thereof. Whenever the method of selection of members of a board is changed to the method provided for in subsection (a)(3) or (4), the term of each member serving on the board at the time of the change of method of selection shall expire on May 1 of the year in which the term of such member is to expire, except that for the purpose of electing members to the board at a time to coincide with elections for other purposes, the board may extend the term of any member for not to exceed one year from the date such member's term would otherwise expire and the board of Sublette hospital district may change prior to the election the length of term for one member to be elected at the 1997 election from four years to two years. If the members of the board are currently selected pursuant to subsection (a)(3), the method of selection may be changed to the method provided for in subsection (a)(4) by a majority vote of the board members.

Sec. 4. K.S.A. 2015 Supp. 25-21a01 and 80-2508 are hereby repealed.

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

Approved May 6, 2016.

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## CHAPTER 56

### SENATE BILL No. 373

AN ACT concerning motor vehicles; relating to vehicle registration, failure or refusal to pay tolls; amending K.S.A. 2015 Supp. 8-173 and repealing the existing section.

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

New Section 1. (a) The registered owner of a vehicle driven on a turnpike project shall pay all tolls associated with that vehicle's use on any

turnpike project. The Kansas turnpike authority may provide by regular U.S. mail or accepted United States postal service tracking method a notice of toll-evasion violation to the registered owner of a vehicle driven on any turnpike project for which the toll has not been paid. The notice of toll evasion may include a toll-evasion civil penalty, administrative fee, and costs for each instance in which the registered owner of a vehicle driven on any turnpike project has failed to pay the toll.

(b) On and after January 1, 2018, if the outstanding amount of any tolls due and owing by the registered owner exceeds \$100, the director or the director's designee is authorized to instruct the division of vehicles to require payment of any tolls due and owing to the county treasurer at the time of registration or renewal of registration or otherwise to refuse to register or renew the registration of the vehicle, as set forth in K.S.A. 8-173(e), and amendments thereto, of the registered owner or owners, until those amounts are paid to the satisfaction of the director or the director's designee.

(c) The registered owner may contest any notice of toll evasion, including all tolls, penalties, fees, costs and registration holds, directly to the Kansas turnpike authority. Upon receipt of a contest from the registered owner, the authority shall investigate and provide to the registered owner, within 30 days of receipt of the registered owner's submission, a toll-evasion violation order, which shall contain the findings of the investigation. A registered owner may thereafter pay the specified amount or contest these findings and conclusions of the authority by requesting an administrative hearing within 15 days of receipt of the toll-evasion violation order, pursuant to the Kansas administrative procedure act.

(1) The administrative hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(2) Any party may appeal the administrative hearing order to the district court, in accordance with the provisions of the Kansas judicial review act.

(d) The turnpike authority may adopt any rules and regulations necessary to carry out the provisions of this section.

Sec. 2. K.S.A. 2015 Supp. 8-173 is hereby amended to read as follows: 8-173. (a) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall not be accepted unless the person making such application shall exhibit:

(1) A receipt showing that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle, except that if such application is made before May 11, such receipt need show payment of only one-half the preceding year's tax; or

(2) evidence that such vehicle was assessed for taxation purposes by

a state agency, or was assessed as stock in trade of a merchant or manufacturer or was exempt from taxation under the laws of this state.

(b) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall not be accepted if the records of the county treasurer show that the applicant is delinquent and owes personal property taxes levied against the applicant for any preceding year.

(c) An original application for registration of a motor vehicle shall not be accepted until the applicant signs a certification, provided by the director of motor vehicles, certifying that the applicant has and will maintain, during the period of registration, the required insurance, self-insurance or other financial security required pursuant to K.S.A. 40-3104, and amendments thereto.

(d) An application for registration or renewal of registration of a vehicle shall not be accepted if the applicant is unable to provide proof of the insurance, self-insurance or other financial security required by article 31 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto. Proof of insurance shall be verified by examination of the insurance card or other documentation issued by an insurance company, a certificate of self-insurance issued by the commissioner, a binder of insurance, a certificate of insurance, a motor carrier identification number issued by the state corporation commission, proof of insurance for vehicles covered under a fleet policy, a commercial policy covering more than one vehicle or a policy of insurance required by K.S.A. 40-3104, and amendments thereto, and for vehicles used as part of a drivers education program, a dealership contract and a copy of a motor vehicle liability insurance policy issued to a school district or accredited nonpublic school. Examination of a photocopy, facsimile or an image displayed on a cellular phone or any other type of portable electronic device of any of these documents shall suffice for verification of registration or renewal. Any person to whom such image of proof of insurance, self-insurance or other financial security required by article 31 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, is displayed, shall view only such image displayed on such cellular phone or other portable electronic device. Such person shall be prohibited from viewing any other content or information stored on such cellular phone or other portable electronic device. Proof of insurance may also be verified on-line or electronically and the commissioner of insurance may require, by duly adopted rules and regulations, any motor vehicle liability insurance company authorized to do business in this state to provide verification of insurance in that manner. Any motor vehicle liability insurance company which is providing verification of insurance on-line or electronically on the day preceding the effective date of this act may continue to do so in the same manner and shall be deemed to be in compliance with this section.

(e) *On and after January 1, 2018, an application for registration or*

*renewal of registration of a vehicle shall not be accepted, if the records of the division show that after three attempts by the Kansas turnpike authority to contact the registered owner, including at least one registered letter, the registered owner of such vehicle has unpaid tolls and that the director of the Kansas turnpike authority or the director's designee has instructed the division to refuse to accept the registration or renewal of registration, pursuant to section 1, and amendments thereto, unless the owner or registered owner makes payment to the county treasurer at the time of registration or renewal of registration. Of such moneys collected, 15% shall be retained by the county treasurer and the remainder shall be remitted to the Kansas turnpike authority.*

Sec. 2. K.S.A. 2015 Supp. 8-173 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 6, 2016.

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## CHAPTER 57

Senate Substitute for HOUSE BILL No. 2008\*

AN ACT concerning schools; creating the student online personal protection act.

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

Section 1. Sections 1 through 4, and amendments thereto, shall be known and may be cited as the student online personal protection act.

Sec. 2. As used in sections 1 through 4, and amendments thereto:

(a) "Educational purposes" means purposes that are directed by an employee or agent of a school district, that customarily take place at an attendance center operated by a school district or that aid in the administration of school activities, including, but not limited to, instruction in the classroom or at home, administrative activities and collaboration between students, school personnel or parents, or which are otherwise for the use and benefit of the school district.

(b) "Interactive computer service" means any service, system or software provider that provides or enables multiple users access to a computer server, including a service or system that provides access to the internet and systems or services offered by libraries or educational institutions.

(c) "Educational online product" means an internet website, online service, online application or mobile application that is used primarily, and was designed and marketed for, educational purposes.

(d) "Operator" means, to the extent it is operating in this capacity, the operator of an educational online product with actual knowledge that

the educational online product is used primarily for educational purposes and was designed and marketed for educational purposes. For the purposes of this act, the term “operator” shall not be construed to include any school district or school district employee acting on behalf of a school district employer.

(e) “Personally identifiable information” means information that personally identifies an individual student or that is linked to information that personally identifies an individual student, including, but not limited to: (1) Information in the student’s educational record or electronic mail; (2) first and last name; (3) home address; (4) telephone number; (5) electronic mail address; (6) any other information that allows physical or online contact with the student; (7) discipline records; (8) test results; (9) data that is a part of or related to any individualized education program for such student; (10) juvenile dependency records; (11) grades; (12) evaluations; (13) criminal records; (14) medical records; (15) health records; (16) social security number; (17) biometric information; (18) disabilities; (19) socioeconomic information; (20) food purchases; (21) political affiliations; (22) religious information; (23) text messages; (24) documents; (25) student identifiers; (26) search activity; (27) photos; (28) voice recordings; or (29) geolocation information.

(f) “School district” means any unified school district organized and operating under the laws of this state.

(g) “Service provider” means a person or entity that provides a service to an operator, or provides a service that enables users to access content, information, electronic mail or other services offered over the internet or a computer network.

(h) “Student information” means personally identifiable information or material in any media or format that is not otherwise available to the public and was:

(1) Created by an operator in the course of the use of the operator’s educational online product for educational purposes;

(2) provided to an operator by a student, or the student’s parent or legal guardian, in the course of the use of the operator’s educational online product for educational purposes;

(3) created by an operator as a result of the activities of an employee or agent of a school district;

(4) provided to an operator by an employee or agent of a school district for educational purposes; or

(5) gathered by an operator through the operation of such operator’s educational online product for educational purposes.

(i) “Targeted advertising” means presenting an advertisement to a student where the advertisement is selected based on information obtained or inferred over time from that student’s online behavior, usage of online applications or student information. Targeted advertising does not include advertising to a student at an online location based upon that

student's current visit to that location, or in response to that student's request for information or feedback, without the retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

Sec. 3. (a) An operator shall not knowingly:

(1) Engage in targeted advertising on the operator's educational online product, or target advertising on any other educational online product if the targeting of the advertising is based on any information, including student information and persistent unique identifiers, that the operator has acquired because of the use of such operator's educational online product for educational purposes;

(2) use information, including student information and persistent unique identifiers, created or gathered through the operation of such operator's educational online product, to amass a profile about a student, except in furtherance of educational purposes;

(3) sell or rent student information to a third party, except when such information is part of the assets being transferred during the purchase, merger or other acquisition of an operator by another entity, provided, the successor entity complies with the provisions of this subsection as though it were an operator with respect to the acquired student information; or

(4) disclose student information unless the disclosure is made for the following purposes:

(A) For legitimate research purposes subject to and as allowed by federal and state law, and under the direction of a school district or the state department of education, provided the student information is not used for advertising or to amass a profile on the student for purposes other than educational purposes, or for any other purposes other than educational purposes;

(B) that information described in section 2(e)(2) and (e)(8), and amendments thereto, upon request by a school district or state agency for educational purposes;

(C) to law enforcement agencies or to a court of competent jurisdiction to protect the safety or integrity of users of the operator's educational online product or other individuals, or the security of such educational online product;

(D) for educational or employment purposes upon request by the student or the student's parent or legal guardian, provided the student information is not used or further disclosed for any other purpose;

(E) to a service provider, provided the operator contractually: (i) Prohibits the service provider from using any student information for any purpose other than providing the contracted service to or on behalf of the operator; (ii) prohibits the service provider from disclosing any student information provided by the operator with subsequent third parties;

and (iii) requires the service provider to implement and maintain reasonable security procedures and practices to ensure the confidentiality of the student information; or

(F) in the course of transferring assets as a part of a business purchase, merger or other acquisition as described in subsection (a)(3).

(b) An operator shall:

(1) Implement and maintain reasonable security procedures and practices appropriate to the nature of the student information which are designed to protect such information from unauthorized access, destruction, use, modification or disclosure; and

(2) delete within a reasonable period of time student information upon request by the school district, unless the student or the student's parent or legal guardian requests that such information continue to be maintained.

(c) Nothing in this section shall be construed to prohibit an operator from:

(1) Using student information to maintain, develop, support, improve or diagnose the operator's educational online product;

(2) using student information to improve educational products, provided such information is not associated with an identified student within the operator's educational online product or within other online products owned by the operator;

(3) using student information to demonstrate the effectiveness of the operator's educational online products, including in their marketing, provided such information is not associated with an identified student within the operator's educational online product or within other online products owned by the operator;

(4) sharing student information for purposes of development and improvement of educational online products, provided such information is not associated with an identified student within the operator's educational online product or within other online products owned by the operator;

(5) using recommendation engines to suggest to a student additional content or services within the operator's educational online product related to an educational, other learning or employment opportunity purpose, provided the recommendation is not determined in whole or in part by payment or other consideration from a third party; or

(6) responding to a student's request for information or feedback, provided such response is not determined in whole or in part by payment or other consideration from a third party.

(d) Nothing in this section shall be construed to:

(1) Limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or pursuant to a court order;

(2) limit the ability of an operator to use student information for adaptive learning or customized student learning purposes;



(3) apply to general audience internet websites, general audience on-line services, general audience online applications or general audience mobile applications, even if login credentials created for an operator's educational online product may be used to access those general audience websites, online services or online applications;

(4) limit service providers from providing internet connectivity to schools or to students and the students' parents or legal guardians;

(5) prohibit an operator from marketing educational products directly to parents and legal guardians, provided such marketing does not result from the use of student information obtained by the operator through the operation of such operator's educational online products;

(6) impose a duty upon a provider of an electronic store, gateway, marketplace or other means of purchasing or downloading software or applications to review or enforce the compliance with this section on such software or applications;

(7) impose a duty upon a provider of an interactive computer service to review or enforce the compliance with this section by third-party content providers; or

(8) prohibit students from downloading, exporting, transferring, saving or maintaining such student's own student information or documents.

(e) As used in this section, the term "amass a profile" shall not include the collection and retention of account information that remains under the control of the student, the student's parent or legal guardian or the school district.

Sec. 4. The attorney general or any district attorney may enforce the provisions of the student online personal protection act by bringing an action in a court of competent jurisdiction, and may seek injunctive relief to enjoin any operator in possession of student information from disclosing any student information in violation of the provisions of the student online personal protection act.

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

Approved May 6, 2016.

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## CHAPTER 58

## SENATE BILL No. 319

AN ACT concerning civil procedure; enacting the public speech protection act; relating to habeas corpus; the protection from stalking act; venue under the small claims procedure act; amending K.S.A. 60-1507, 60-31a02 and 61-2708 and repealing the existing sections.

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

New Section 1. (a) This section shall be known and may be cited as the public speech protection act.

(b) The purpose of the public speech protection act is to encourage and safeguard the constitutional rights of a person to petition, and speak freely and associate freely, in connection with a public issue or issue of public interest to the maximum extent permitted by law while, at the same time, protecting the rights of a person to file meritorious lawsuits for demonstrable injury.

(c) As used in the public speech protection act:

(1) "Claim" means any lawsuit, cause of action, claim, cross-claim, counterclaim or other judicial pleading or filing requesting relief.

(2) "Communication" means the making or submitting of a statement or document in any form or medium, including oral, visual, written or electronic.

(3) "Exercise of the right of association" means a communication between individuals who join together to collectively express, promote, pursue or defend common interests.

(4) "Exercise of the right of free speech" means a communication made in connection with a public issue or issue of public interest.

(5) "Exercise of the right to petition" means any of the following:

(A) A communication in or pertaining to:

(i) A judicial proceeding;

(ii) an official proceeding, other than a judicial proceeding, to administer the law;

(iii) an executive or other proceeding before a department of the state, federal government, or other political subdivision of the state;

(iv) a legislative proceeding, including a proceeding of a legislative committee;

(v) a proceeding before an entity that requires by rule that public notice be given before proceedings of such entity;

(vi) a proceeding in or before a managing board of an educational institution supported directly or indirectly from public revenue;

(vii) a proceeding of the governing body of any political subdivision of this state;

(viii) a report of or debate and statements made in a proceeding described by subsection (c)(5)(A)(iii), (iv), (v), (vi) or (vii); or

(ix) a public meeting dealing with a public purpose, including state-

ments and discussions at the meeting or other public issues or issues of public interest occurring at the meeting;

(B) a communication in connection with an issue under consideration or review by a legislative, executive, judicial or other governmental or official proceeding;

(C) a communication that is reasonably likely to encourage consideration or review of an issue by a legislative, executive, judicial or other governmental or official proceeding;

(D) a communication reasonably likely to enlist public participation in an effort to effect consideration of an issue by a legislative, executive, judicial or other governmental or official proceeding; and

(E) any other communication or conduct that falls within the protection of the right to petition the government under the constitution of the United States or the constitution of the state of Kansas.

(6) “Governmental proceeding” means a proceeding, other than a judicial proceeding, by an officer, official or body or political subdivision of this state, including a board or commission, or by an officer, official or body of the federal government.

(7) “Public issue or issue of public interest” includes an issue related to:

(A) Health or safety;

(B) environmental, economic or community well-being;

(C) the government;

(D) a public official or public figure; or

(E) a good, product or service in the marketplace.

(8) “Moving party” means any person on whose behalf the motion to strike is filed seeking to strike a claim.

(9) “Official proceeding” means any type of administrative, executive, legislative or judicial proceeding that may be conducted before a public servant.

(10) “Public servant” means a person elected, selected, appointed, employed or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed the person’s duties:

(A) An officer, employee or agent of government;

(B) a juror;

(C) an arbitrator, mediator or other person who is authorized by law or private written agreement to hear or determine a cause or controversy;

(D) an attorney or notary public when participating in the performance of a governmental function; or

(E) a person who is performing a governmental function under a claim of right but is not legally qualified to do so.

(d) A party may bring a motion to strike the claim if a claim is based on, relates to or is in response to a party’s exercise of the right of free speech, right to petition or right of association. A party bringing the motion to strike has the initial burden of making a prima facie case showing

the claim against which the motion is based concerns a party's exercise of the right of free speech, right to petition or right of association. If the moving party meets the burden, the burden shifts to the responding party to establish a likelihood of prevailing on the claim by presenting substantial competent evidence to support a prima facie case. If the responding party meets the burden, the court shall deny the motion. In making its determination, the court shall consider pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based. If the court determines the responding party established a likelihood of prevailing on the claim: (1) The fact that the court made that determination and the substance of the determination may not be admitted into evidence later in the case; and (2) the determination does not affect the burden or standard of proof in the proceeding. The motion to strike made under this subsection may be filed within 60 days of the service of the most recent complaint or, in the court's discretion, at any later time upon terms it deems proper. A hearing shall be held on the motion not more than 30 days after the service of the motion.

(e) (1) On a motion by a party or on the court's own motion and on a showing of good cause, the court may allow specified and limited discovery relevant to the motion.

(2) Except as provided by subsection (e)(1), all discovery, motions or other pending hearings shall be stayed upon the filing of the motion to strike. The stay of discovery shall remain in effect until the entry of the order ruling on the motion except that the court, on motion and for good cause shown, may order that specified discovery, motions or other pending hearings be conducted.

(f) The movant in a motion to strike has the right to: (1) Petition for a writ of mandamus if the trial court fails to rule on the motion in an expedited fashion; or (2) file an interlocutory appeal from a trial court order denying the motion to strike, if notice of appeal is filed within 14 days after entry of such order. However, under subsections (f)(1) and (2), further proceedings in the trial court shall be stayed pending determination of the appeal.

(g) The court shall award the defending party, upon a determination that the moving party has prevailed on its motion to strike, without regard to any limits under state law: (1) Costs of litigation and reasonable attorney fees; and (2) such additional relief, including sanctions upon the responding party and its attorneys and law firms, as the court determines necessary to deter repetition of the conduct by others similarly situated. If the court finds that the motion to strike is frivolous or solely intended to cause delay, the court shall award to the responding party reasonable attorney fees and costs related to the motion.

(h) This section does not apply to:

(1) An enforcement action that is brought in the name of this state

or a political subdivision of this state by the attorney general or a district or county attorney;

(2) a claim brought against a person primarily engaged in the business of selling or leasing goods or services, if the statement or conduct arises out of the sale or lease of goods, services or an insurance product, insurance services or a commercial transaction in which the intended audience is an actual or potential buyer or customer, except as provided in subsection (i); or

(3) a claim brought under the Kansas insurance code or arising out of an insurance contract.

(i) Subsection (h)(2) shall not apply to any action against any person or entity based upon the creation, dissemination, exhibition, advertisement or other similar promotion of any dramatic, literary, musical, political or artistic work, including, but not limited to, a motion picture or television program, or an article published in a newspaper or magazine of general circulation.

(j) In any case filed by a government contractor that is found by a court to be in violation of this section, the court shall provide for its ruling to be sent to the head of the relevant governmental entity doing business with the contractor.

(k) The provisions of the public speech protection act shall be applied and construed liberally to effectuate its general purposes. If any provision of the public speech protection act or its application is held invalid, the invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application.

Sec. 2. K.S.A. 60-1507 is hereby amended to read as follows: 60-1507.

(a) *Motion attacking sentence.* A prisoner in custody under sentence of a court of general jurisdiction claiming the right to be released upon the ground that the sentence was imposed in violation of the constitution or laws of the United States, or the constitution or laws of the state of Kansas, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may, pursuant to the time limitations imposed by subsection (f), move the court which imposed the sentence to vacate, set aside or correct the sentence.

(b) *Hearing and judgment.* Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the county attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. The court may entertain and determine such motion without requiring the production of the prisoner at the hearing. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or is otherwise open to collateral attack, or that there

has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence said prisoner or grant a new trial or correct the sentence as may appear appropriate.

(c) *Successive motions.* The sentencing court shall not be required to entertain a second or successive motion for similar relief on behalf of the same prisoner.

(d) *Appeal.* An appeal may be taken to the appellate court as provided by law from the order entered on the motion as from a final judgment on application for a writ of habeas corpus.

(e) *Exclusiveness of remedy.* An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced said applicant, or that such court has denied said applicant relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of said applicant's detention.

(f) *Time limitations.* (1) Any action under this section must be brought within one year of:

~~(i)~~(A) The final order of the last appellate court in this state to exercise jurisdiction on a direct appeal or the termination of such appellate jurisdiction; or

~~(ii)~~(B) the denial of a petition for writ of certiorari to the United States supreme court or issuance of such court's final order following granting such petition.

(2) The time limitation herein may be extended by the court only to prevent a manifest injustice.

(A) *For purposes of finding manifest injustice under this section, the court's inquiry shall be limited to determining why the prisoner failed to file the motion within the one-year time limitation or whether the prisoner makes a colorable claim of actual innocence. As used herein, the term actual innocence requires the prisoner to show it is more likely than not that no reasonable juror would have convicted the prisoner in light of new evidence.*

(B) *If the court makes a manifest-injustice finding, it must state the factual and legal basis for such finding in writing with service to the parties.*

(3) *If the court, upon its own inspection of the motions, files and records of the case, determines the time limitations under this section have been exceeded and that the dismissal of the motion would not equate with manifest injustice, the district court must dismiss the motion as untimely filed.*

Sec. 3. K.S.A. 60-31a02 is hereby amended to read as follows: 60-31a02. As used in the protection from stalking act:

(a) “Stalking” means an intentional harassment of another person that places the other person in reasonable fear for that person’s safety.

(b) “Harassment” means a knowing and intentional course of conduct directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves no legitimate purpose. “*Harassment*” shall include any course of conduct carried out through the use of an unmanned aerial system over or near any dwelling, occupied vehicle or other place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

(c) “Course of conduct” means conduct consisting of two or more separate acts over a period of time, however short, evidencing a continuity of purpose which would cause a reasonable person to suffer substantial emotional distress. Constitutionally protected activity is not included within the meaning of “course of conduct.”

(d) “*Unmanned aerial system*” means a powered, aerial vehicle that:

- (1) Does not carry a human operator;
- (2) uses aerodynamic forces to provide vehicle lift;
- (3) may fly autonomously or be piloted remotely;
- (4) may be expendable or recoverable; and
- (5) may carry a lethal or nonlethal payload.

Sec. 4. K.S.A. 61-2708 is hereby amended to read as follows: 61-2708. The venue of actions commenced under this act shall be as prescribed in article ~~19~~ 34 of chapter 61 of the Kansas Statutes Annotated, *and amendments thereto*, except that the county in which the cause of action arose shall be proper venue only where it is affirmatively shown that the defendant was a resident of the county where the cause of action arose at the time the cause of action arose.

Sec. 5. K.S.A. 60-1507, 60-31a02 and 61-2708 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 6, 2016.

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## CHAPTER 59

## HOUSE BILL No. 2436

AN ACT concerning boating; relating to safety education courses, exemptions therefrom; amending K.S.A. 32-1139 and repealing the existing section.

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

Section 1. K.S.A. 32-1139 is hereby amended to read as follows: 32-1139. (a) On and after January 1, 2001:

(1) No person born on or after January 1, 1989, shall operate on public waters of this state any motorboat or sailboat unless the person possesses a certificate of completion of an approved boater safety education course of instruction lawfully issued to such person as provided by this act.

(2) No owner or person in possession of any motorboat or sailboat shall permit another person, who is subject to the requirements in subsection (a)(1), to operate such motorboat or sailboat unless such other person either: (A) Has been lawfully issued a certificate of completion of an approved boater safety education course of instruction as provided by this act; or (B) is legally exempt from the requirements of subsection (a)(1).

(3) The requirement in subsection (a)(1), shall not apply to a person 21 years of age or older.

(4) *The requirement in subsection (a)(1) shall not apply to a person operating a sailboat that does not have a motor and has an overall length of 16 feet, seven inches or less, while such person is enrolled in an instructor-led class.*

(b) The requirement in subsection (a)(1) shall not apply to a person operating a motorboat or sailboat accompanied by and under the direct and audible supervision of a person over 17 years of age who either: (1) Possesses a certificate of completion of an approved boater safety education course; or (2) is legally exempt from the requirements of subsection (a)(1).

(c) No person who is charged with a violation of subsection (a)(1) shall be convicted of the violation if such person produces in court or in the office of the arresting officer a certificate of completion of an approved boater safety education course of instruction lawfully issued to such person and valid at the time of such person's arrest.

Sec. 2. K.S.A. 32-1139 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 6, 2016.

Published in the *Kansas Register* May 19, 2016.

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## CHAPTER 60

## HOUSE BILL No. 2610

AN ACT concerning highways; relating to commemorative designations, the junction of interstate highway 70 and commerce parkway in Ellis county as the chief warrant officer 5 David Carter fallen veterans memorial interchange, a portion of U.S. highway 400 as the John Troy, Pete Hughes and Earl Seifert highway, the junction of interstate highway 235 and central avenue in Sedgwick county as the Captain Chris Norgren memorial interchange, a portion of K-148 as the SGT Lavern W Tegtmeier memorial highway; maximum speed limits, powers of the secretary of transportation; amending K.S.A. 8-1559 and repealing the existing section.

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

Section 1. The junction of interstate highway 70 and commerce parkway in Ellis county is hereby designated as the chief warrant officer 5 David Carter fallen veterans memorial interchange. Upon compliance with K.S.A. 2015 Supp. 68-10,114, and amendments thereto, 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 commerce parkway in Ellis county is the chief warrant officer 5 David Carter fallen veterans memorial interchange.

Sec. 2. The portion of United States highway 400 from the intersection with Queens road in Labette county, then east to the intersection with Udall road is hereby designated as the John Troy, Pete Hughes and Earl Seifert highway. Upon compliance with K.S.A. 2015 Supp. 68-10,114, and amendments thereto, the secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the John Troy, Pete Hughes and Earl Seifert highway.

Sec. 3. The junction of interstate highway 235 and central avenue in Sedgwick county is hereby designated as the Captain Chris Norgren memorial interchange. Upon compliance with K.S.A. 2015 Supp. 68-10,114, and amendments thereto, the secretary of transportation shall place signs along the highway right-of-way at proper intervals to indicate that the junction of interstate highway 235 and central avenue is the Captain Chris Norgren memorial interchange.

Sec. 4. The portion of K-148 from the intersection with 23rd road in Washington county, then north to the Nebraska state line is hereby designated as the SGT Lavern W Tegtmeier memorial highway. Upon compliance with K.S.A. 2015 Supp. 68-10,114, and amendments thereto, the secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the SGT Lavern W Tegtmeier memorial highway.

Sec. 5. K.S.A. 8-1559 is hereby amended to read as follows: 8-1559.

(a) The secretary of transportation may determine and declare:

(1) Based on an engineering and traffic investigation that an existing

speed limit is greater or less than what is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway system, or upon any city street which is a state highway connecting link; or

(2) based on information or circumstances known to the secretary, without an engineering or traffic investigation, that a speed less than the maximum otherwise allowed is warranted. If the secretary determines to designate a speed limit under authority of this paragraph the secretary shall prepare a statement and notice of alteration of maximum speed limit. The statement shall be in writing, shall specify the designated maximum speed limit, the route or routes affected, or any segment thereof, the factors upon which the decision is based and the date on which the speed limit shall be effective. The notice shall specify the route or routes affected, or segments thereof, the designated maximum speed limit and the effective date. The notice required under this paragraph shall be sent to the Kansas highway patrol and the sheriff of any county in which the affected route or routes are located prior to the effective date of the new maximum speed limit.

(b) Any maximum speed limit declared under subsection (a) may be effective at all times or at designated times; and differing speed limits may be established for different times of day, different types of vehicles, varying weather conditions, or other factors bearing on safe speeds. In addition to any other requirement imposed on the secretary of transportation, no alteration in the speed limits under subsection (a) shall be effective until posted upon appropriate fixed or variable signs.

(c) The secretary of transportation may establish the speed limit within a road construction zone, as defined in K.S.A. 8-1458a, and amendments thereto, upon any highway under the jurisdiction of the secretary, and the speed limit shall be effective when appropriate signs giving notice thereof are erected.

(d) The secretary of transportation shall not establish any maximum speed limit in excess of the maximum speed limits established by K.S.A. 8-1558, and amendments thereto, *except that the secretary may establish a speed limit which exceeds the limit established under K.S.A. 8-1558(a)(4), and amendments thereto, by five miles per hour on any such highway located outside of an urban district. Prior to increasing any speed limit authorized pursuant to this subsection, the secretary shall consider the effects of K.S.A. 8-1560c and 8-1560d before establishing a higher speed limit.*

(e) The secretary of transportation shall not alter any speed limit established under ~~paragraph (4) of subsection (a) of~~ K.S.A. 8-1560(a)(4), and amendments thereto, without first obtaining approval from the local authority.

Sec. 6. K.S.A. 8-1559 is hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 6, 2016.

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## CHAPTER 61

### House Substitute for SENATE BILL No. 44

AN ACT concerning the commercial real estate broker lien act; relating to conditions, recording and notice of lien; amending K.S.A. 58-30a03, 58-30a07 and 58-30a09 and repealing the existing sections.

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

Section 1. K.S.A. 58-30a03 is hereby amended to read as follows: 58-30a03. (a) Any broker shall have a lien on commercial real estate in the amount of the compensation as agreed upon by the broker and the owner or the owner's agent, if:

(1) Such real estate is listed with the broker under terms of a written agreement signed by the owner or the owner's agent; and

(2) the broker or salespersons retained by the broker have provided services that resulted in the procuring of a person or entity ready, willing and able to purchase, lease or otherwise accept a conveyance of the commercial real estate as provided by such agreement which were otherwise acceptable to the owner or owner's agent as evidenced by a written agreement signed by the owner or the owner's agent.

(b) A broker also shall have a lien on such commercial real estate if the broker has a written agreement with a person to represent such person in the purchase, lease or other conveyance to the buyer, *lessee or grantee* of such real estate when the broker becomes entitled to compensation pursuant to the written agreement.

Sec. 2. K.S.A. 58-30a07 is hereby amended to read as follows: 58-30a07. In the case of a lease, the lien must be recorded within ~~90~~ 180 days after the lessee takes possession of the property. If written notice of the intention to sign the lease is personally served on the broker entitled to claim a lien at least 10 days before the date of the intended signing of the lease, the claim for lien must be recorded before the date indicated for the signing of the lease. The lien attaches for purposes of this ~~paragraph~~ section when the claim for lien is recorded.

Sec. 3. K.S.A. 58-30a09 is hereby amended to read as follows: 58-30a09. If a lease also includes provisions for a sublease or assignment of lease, the notice of lien must be recorded not later than ~~90~~ 180 days after the lessee takes possession of the leased premises. If the transferor personally serves written notice of the intended execution of the lease on the

broker entitled to claim a lien at least 10 days prior to the date of the intended execution of the lease, the notice of lien must be recorded before the date indicated in such notice for the execution of the lease. The lien shall attach as of the recording of the notice of lien and shall not relate back to the date of the written instrument.

Sec. 4. K.S.A. 58-30a03, 58-30a07 and 58-30a09 are hereby repealed.

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

Approved May 9, 2016.

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## CHAPTER 62

Substitute for HOUSE BILL No. 2062

AN ACT concerning the uniform commercial code; relating to the exclusion of consumer transactions governed by federal law; secured transactions; amending K.S.A. 84-4a-108 and K.S.A. 2015 Supp. 84-9-408, 84-9-803, 84-9-805 and 84-9-807 and repealing the existing sections.

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

Section 1. K.S.A. 84-4a-108 is hereby amended to read as follows: 84-4a-108. (a) *Except as provided in subsection (b)*, this article does not apply to a funds transfer any part of which is governed by the electronic fund transfer act of 1978 (title XX, public law 95-630, 92 Stat. 3728, 15 U.S.C. §1693 et seq.) ~~as amended from time to time.~~

(b) *This article applies to a funds transfer that is a remittance transfer as defined in the electronic fund transfer act (15 U.S.C. § 1693o-1), unless the remittance transfer is an electronic fund transfer as defined in the electronic fund transfer act (15 U.S.C. § 1693a).*

(c) *In a funds transfer to which this article applies, in the event of an inconsistency between an applicable provision of this article and an applicable provision of the electronic fund transfer act, the provision of the electronic fund transfer act governs to the extent of the inconsistency.*

Sec. 2. K.S.A. 2015 Supp. 84-9-408 is hereby amended to read as follows: 84-9-408. (a) **Term restricting assignment generally ineffective.** Except as otherwise provided in ~~subsection (b) and subsection (g)~~ of K.S.A. 17-76,134(b) and (g), and amendments thereto, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the

promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) **Applicability of subsection (a) to sales of certain rights to payment.** Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under K.S.A. 2015 Supp. 84-9-610, and amendments thereto, or an acceptance of collateral under K.S.A. 2015 Supp. 84-9-620, and amendments thereto.

(c) **Legal restrictions on assignment generally ineffective.** Except as otherwise provided in ~~and subsection (g) of~~ K.S.A. 17-76,134(g), and amendments thereto, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) **Limitation on ineffectiveness under subsections (a) and (c).** To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than this article but is ineffective under subsection (a) or (c), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) Is not enforceable against the person obligated on the promissory note or the account debtor;

(2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) **Section prevails over specified inconsistent law.** This section prevails over any inconsistent provisions of any laws, rules, and regulations of this state.

Sec. 3. K.S.A. 2015 Supp. 84-9-803 is hereby amended to read as follows: 84-9-803. (a) **Continuing perfection: Perfection requirements satisfied.** A security interest that is a perfected security interest immediately before July 1, 2013, is a perfected security interest under article 9 of chapter 84 of the Kansas Statutes Annotated, as amended by this act, if, on July 1, 2013, the applicable requirements for attachment and perfection under article 9 of chapter 84 of the Kansas Statutes Annotated, as amended by this act, are satisfied without further action.

(b) **Continuing perfection: Perfection requirements not satisfied.** Except as otherwise provided in K.S.A. 2015 Supp. ~~84-9-806~~ 84-9-805, and amendments thereto, if immediately before July 1, 2013, a security interest is a perfected security interest, but the applicable requirements for perfection under article 9 of chapter 84 of the Kansas Statutes Annotated, as amended by this act, are not satisfied on July 1, 2013, the security interest remains perfected thereafter only if the applicable requirements for perfection under article 9 of chapter 84 of the Kansas Statutes Annotated, as amended by this act, are satisfied within one year after July 1, 2013.

Sec. 4. K.S.A. 2015 Supp. 84-9-805 is hereby amended to read as follows: 84-9-805. (a) **Pre-effective-date filing effective.** The filing of a financing statement before July 1, 2013, is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under article 9 of chapter 84 of the Kansas Statutes Annotated, and as amended by this act.

(b) **When pre-effective-date filing becomes ineffective.** This act does not render ineffective an effective financing statement that, before

July 1, 2013, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, prior to amendments by this act. However, except as otherwise provided in subsections (c) and (d) of *and* K.S.A. 2015 Supp. 84-9-807 84-9-806, and amendments thereto, the financing statement ceases to be effective:

(1) If the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this act not taken effect; or

(2) if the financing statement is filed in another jurisdiction, at the earlier of:

(A) At the time the financing statement would have ceased to be effective under the law of that jurisdiction; or

(B) June 30, 2018.

(c) **Continuation statement.** The filing of a continuation statement after July 1, 2013, does not continue the effectiveness of a financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after July 1, 2013, and in accordance with the law of the jurisdiction governing perfection as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, as amended by this act, the effectiveness of a financing statement filed in the same office in that jurisdiction before July 1, 2013, continues for a period provided by the law of that jurisdiction.

(d) **Application of subsection (b)(2)(B) to transmitting utility financing statement.** Subsection (b)(2)(B) applies to a financing statement that, before July 1, 2013, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, prior to amendments by this act, only to the extent that article 9 of chapter 84 of the Kansas Statutes Annotated, as amended by this act, provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(e) **Application of part 5.** A financing statement that includes a financing statement filed before July 1, 2013, and a continuation statement filed after July 1, 2013, is effective only to the extent that it satisfies the requirements of part 5 of article 9 of chapter 84 of the Kansas Statutes Annotated, as amended by this act, for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of K.S.A. 2015 Supp. 84-9-503(a)(2), as amended by this act. A financing statement that indicates that the debtor is a trust or trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of K.S.A. 2015 Supp. 84-9-503(a)(3), as amended by this act.

Sec. 5. K.S.A. 2015 Supp. 84-9-807 is hereby amended to read as follows: 84-9-807. (a) **Pre-effective-date financing statement.** In this section, “pre-effective-date financing statement” means a financing statement filed before July 1, 2013.

(b) **Applicable law.** After July 1, 2013, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, as amended by this act. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) **Method of amending: General rule.** Except as otherwise provided in subsection (d), if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after July 1, 2013, only if:

(1) The pre-effective-date financing statement and an amendment are filed in the office specified in K.S.A. 2015 Supp. 84-9-501, and amendments thereto;

(2) an amendment is filed in the office specified in K.S.A. 2015 Supp. 84-9-501, and amendments thereto, concurrently with, or after the filing in that office of, an initial financing statement that satisfies ~~subsection (c) of K.S.A. 2015 Supp. 84-9-807~~ 84-9-806(c), and amendments thereto; or

(3) an initial financing statement that provides the information as amended and satisfies ~~subsection (c) of K.S.A. 2015 Supp. 84-9-807(c)~~, and amendments thereto, is filed in the office specified in K.S.A. 2015 Supp. 84-9-501, and amendments thereto.

(d) **Method of amending: Continuation.** If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under ~~subsections (c) and (e) of K.S.A. 2015 Supp. 84-9-806~~ 84-9-805(c) and (e), and amendments thereto, or K.S.A. 2015 Supp. ~~84-9-807~~ 84-9-806, and amendments thereto.

(e) **Method of amending: Additional termination rule.** Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated after July 1, 2013, by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies ~~subsection (c) of K.S.A. 2015 Supp. 84-9-807~~ 84-9-806(c), and amendments thereto, has been filed in the office specified by the law of the jurisdiction governing perfection as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, as amended by this act, as the office in which to file a financing statement.



Sec. 6. K.S.A. 84-4a-108 and K.S.A. 2015 Supp. 84-9-408, 84-9-803, 84-9-805 and 84-9-807 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 9, 2016.

Published in the *Kansas Register* May 19, 2016.

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CHAPTER 63  
SENATE BILL No. 19

AN ACT concerning administrative procedure; relating to the Kansas administrative procedure act; Kansas judicial review act; amending K.S.A. 77-502, 77-545, 77-546, 77-548 and 77-613 and K.S.A. 2015 Supp. 77-519, 77-521 and 77-531 and repealing the existing sections.

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

Section 1. K.S.A. 77-502 is hereby amended to read as follows: 77-502. As used in this act:

(a) “State agency” means any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and legislative branches of state government and political subdivisions of the state, which is authorized by law to administer, enforce or interpret any law of this state.

(b) “Agency head” means an individual or body of individuals in whom the ultimate legal authority of the state agency is vested by any provision of law.

(c) “License” means a franchise, permit, certification, approval, registration, charter or similar form of authorization required by law for a person to engage in a profession or occupation.

(d) “Order” means a state agency action of particular applicability that determines the legal rights, duties, privileges, immunities or other legal interest of one or more specific persons.

(e) “Party to state agency proceedings,” or “party” in context so indicating, means:

(1) A person to whom an order is specifically directed; or

(2) a person named as a party to a state agency proceeding or allowed to intervene as a party in the proceeding.

(f) “Person” means an individual, partnership, corporation, association, political subdivision or unit thereof or public or private organization or entity of any character, and includes another state agency.

(g) “Political subdivision” means political or taxing subdivisions of the state, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups or administrative units

thereof, receiving or expending and supported in whole or in part by public funds;

(h) “Writing,” “written,” or “in writing” means any worded or numbered expression that can be read, reproduced and later communicated, and includes electronically transmitted and stored information.

Sec. 2. K.S.A. 2015 Supp. 77-519 is hereby amended to read as follows: 77-519. (a) The presiding officer, at appropriate stages of the proceedings, shall give all parties full opportunity to file pleadings, objections and motions, including, but not limited to, motions to dismiss and motions for summary judgment.

(b) The presiding officer, at appropriate stages of the proceedings, may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law and proposed initial or final orders.

(c) A party shall serve copies of any filed item on all parties, by mail or any other means, *including electronic means, if the party to be served has consented to service by electronic means*, prescribed by state agency rule and regulation or by the presiding officer.

Sec. 3. K.S.A. 2015 Supp. 77-521 is hereby amended to read as follows: 77-521. (a) The presiding officer shall grant a petition for intervention if:

(1) The petition is submitted in writing to the presiding officer, with copies ~~mailed to~~ *served upon* all parties named in the presiding officer’s notice of the hearing, at least three business days before the hearing;

(2) the petition states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervener under any provision of law; and

(3) the presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

(b) The presiding officer may grant a petition for intervention at any time upon determining that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

(c) If a petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervener’s participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(1) Limiting the intervener’s participation to designated issues in which the intervener has a particular interest demonstrated by the petition;

(2) limiting the intervener’s use of discovery, cross-examination and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

(3) requiring two or more interveners to combine their presentations of evidence and argument, cross-examination, discovery and other participation in the proceedings.

(d) The presiding officer, at least one business day before the hearing, shall issue an order granting or denying each pending petition for intervention, specifying any conditions and briefly stating the reasons for the order. The presiding officer may modify the order at any time, stating the reasons for the modification. The presiding officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties.

Sec. 4. K.S.A. 2015 Supp. 77-531 is hereby amended to read as follows: 77-531. (a) Service of an order or notice shall be made upon the party and the party's attorney of record, if any, by:

(1) Delivering a copy of the order or notice to the person to be served ~~or by~~;

(2) mailing a copy of the order or notice to the person at the person's last known address; or

(3) *transmitting a copy of the order or notice to the person by electronic means, if such person has consented to service by electronic means.*

(b) Service shall be presumed if the presiding officer, or a person directed to make service by the presiding officer, makes a written certificate of service. Delivery of a copy of an order or notice means handing the order or notice to the person or leaving the order or notice at the person's principal place of business or residence with a person of suitable age and discretion who works or resides therein. Service by mail is complete upon mailing. *Service by electronic means is complete upon transmission or as otherwise specified in the consent. Any consent to electronic service shall specify when such service is complete.* Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after service of a notice or order and the notice or order is served by mail or *electronic means*, three days shall be added to the prescribed period.

Sec. 5. K.S.A. 77-545 is hereby amended to read as follows: 77-545.

(a) This section applies to adjudicative proceedings before the state corporation commission.

(b) (1) After the commission has determined and announced that a hearing should be held, and prior to the issuance of a final order, no parties to the proceeding, or their counsel, shall discuss the merits of the matter or proceeding with the presiding officer unless reasonable notice is given to all parties who have appeared to enable the parties to be present at the conference.

(2) After the commission has determined and announced that a hearing should be held, prior to the issuance of a final order, copies of any written communications from any party regarding the proceeding that are

directed to the presiding officer shall be ~~mailed to~~ *served upon* all parties of record and proof of service shall be furnished to the commission. Communications requested by members of the commission staff from any party and any written communications received by members of the commission staff from any party shall be made a part of the file and the docket and shall be made available to all persons who desire to use them, provided that all commission requests for information from a party shall be ~~mailed to~~ *served upon* all parties of record.

(3) The person or persons to whom any *ex parte* communication has been made shall promptly and fully inform the full commission of the substance of the communication, and the circumstances thereof, to enable the commission to take appropriate action.

(c) For purposes of this section, no member of the technical staff shall be considered a party to any proceeding before the commission, regardless of participation in staff investigations with respect to the proceeding or of participation in the proceeding as a witness. Since the purpose of the staff is to aid the commission in the proper discharge of commission duties, the presiding officers shall be free at all times to confer with any staff member with respect to any proceeding. However, no facts that are outside the record, and that reasonably could be expected to influence the decision in any matter pending before the commission, shall be furnished to any presiding officer unless all parties to the proceeding are likewise informed and afforded a reasonable opportunity to respond. Subsection (b) shall apply to staff counsel in regard to any adjudicatory proceeding before the commission.

(d) All letters and written communications that are received by the presiding officer from members of the general public, and that are in the nature of *ex parte* communications, shall be made a part of the file in the docket and shall be made available to all persons who desire to see them. The deposit of such written communications and letters in the file shall not make them a part of the official record of the case.

Sec. 6. K.S.A. 77-546 is hereby amended to read as follows: 77-546.

(a) This section applies to adjudicative proceedings before the commissioner of insurance concerning any rate, or any rule, regulation or practice pertaining to the rates over which the commissioner has jurisdiction and adjudicative proceedings held pursuant to the Kansas insurance holding companies act.

(b) (1) After the commissioner has determined and announced that a hearing should be held, and prior to the issuance of a final order, no parties to the proceeding, or their counsel, shall discuss the merits of the matter or proceeding with the presiding officer unless reasonable notice is given to all parties who have appeared to enable the parties to be present at the conference.

(2) After the commissioner has determined and announced that a

hearing should be held, prior to the issuance of a final order, copies of any written communications from any party regarding the proceeding that are directed to the presiding officer shall be ~~mailed to~~ *served upon* all parties of record and proof of service shall be furnished to the commissioner. Communications requested by the commissioner's staff from any party and any written communication received by the commissioner's staff from any party shall be made a part of the file and the docket and shall be made available to all persons who desire to use them, provided that the commissioner's requests for information from a party shall be mailed to all parties of record.

(3) The person or persons to whom any ex parte communication has been made shall promptly and fully inform the commissioner of the substance of the communication, and the circumstances thereof, to enable the commissioner to take appropriate action.

(c) For purposes of this section, no member of the commissioner's technical staff shall be considered a party to any proceeding before the commissioner, regardless of participation in staff investigations with respect to the proceeding or of participation in the proceeding as a witness. Since the purpose of the staff is to aid the commissioner in the proper discharge of the commissioner's duties, the presiding officer shall be free at all times to confer with any staff member with respect to any proceeding. However, no facts that are outside the record, and that reasonably could be expected to influence the decision in any matter pending before the commissioner, shall be furnished to any presiding officer unless all parties to the proceeding are likewise informed and afforded a reasonable opportunity to respond. Subsection (b) shall apply to staff counsel who have participated in the proceeding in regard to any adjudicatory proceeding before the commissioner.

(d) All letters and written communications that are received by the presiding officer from members of the general public, and that are in the nature of ex parte communications, shall be made a part of the file in the docket and shall be made available to all persons who desire to see them. The deposit of such written communications and letters in the file shall not make them a part of the official record of the case.

Sec. 7. K.S.A. 77-548 is hereby amended to read as follows: 77-548. (a) This section applies to adjudicative proceedings before the director of taxation. Informal conferences held pursuant to K.S.A. 79-3226, and amendments thereto, shall not be deemed to be adjudicative proceedings for the purposes of this act.

(b) (1) After the director has determined and announced that a hearing should be held, and prior to the issuance of a final order, no parties to the proceeding, or their counsel, shall discuss the merits of the matter or proceeding with the presiding officer unless reasonable notice is given

to all parties who have appeared to enable the parties to be present at the conference.

(2) After the director has determined and announced that a hearing should be held, prior to the issuance of a final order, copies of any written communications from any party regarding the proceeding that are directed to the presiding officer shall be ~~mailed to~~ *served upon* all parties of record and proof of service shall be furnished to the director. Communications requested by the director's staff from any party and any written communication received by the director's staff from any party shall be made a part of the file and the docket and shall be made available to all persons who desire to use them, provided that the director's requests for information from a party shall be ~~mailed to~~ *served upon* all parties of record.

(3) The person or persons to whom any ex parte communication has been made shall promptly and fully inform the director of the substance of the communication, and the circumstances thereof, to enable the director of any division within the department to take appropriate action.

(c) For purposes of this section, no member of the director's technical staff shall be considered a party to any proceeding before the director, regardless of participation in staff investigations with respect to the proceeding or of participation in the proceeding as a witness. Since the purpose of the staff is to aid the director in the proper discharge of the director's duties, the presiding officer shall be free at all times to confer with any staff member with respect to any proceeding. However, no facts that are outside the record, and that reasonably could be expected to influence the decision in any matter pending before the director, shall be furnished to any presiding officer unless all parties to the proceeding are likewise informed and afforded a reasonable opportunity to respond. Subsection (b) shall apply to staff counsel who have participated in the proceeding in regard to any adjudicatory proceeding before the director.

(d) All letters and written communications that are received by the presiding officer from members of the general public, and that are in the nature of ex parte communications, shall be made a part of the file in the docket and shall be made available to all persons who desire to see them. The deposit of such written communications and letters in the file shall not make them a part of the official record of the case.

Sec. 8. K.S.A. 77-613 is hereby amended to read as follows: 77-613. Subject to other requirements of this act or of another statute:

(a) A petition for judicial review of a rule and regulation may be filed at any time, except as otherwise provided by law.

(b) If reconsideration has not been requested and is not a prerequisite for seeking judicial review, a petition for judicial review of a final order shall be filed within 30 days after service of the order.

(c) Except as provided in K.S.A. 77-631, *and amendments thereto*, if

reconsideration has been requested or is a prerequisite for seeking judicial review, a petition for judicial review of a final order shall be filed: (1) Within 30 days after service of the order rendered upon reconsideration, unless a further petition for reconsideration is required under K.S.A. 66-118b, and amendments thereto; (2) within 30 days after service of an order denying the request for reconsideration; or (3) in proceedings before the Kansas corporation commission, within 30 days of the date the request for reconsideration is deemed to have been denied.

(d) A petition for judicial review of agency action other than a rule and regulation or final order shall be filed within 30 days after the agency action, but the time is extended:

(1) During the pendency of the petitioner's timely attempts to exhaust administrative remedies; and

(2) during any period that the petitioner did not know and was under no duty to discover, or did not know and was under a duty to discover but could not reasonably have discovered, that the agency had taken the action or that the agency action had a sufficient effect to confer standing upon the petitioner to obtain judicial review under this act.

(e) Service of an order, pleading or other matter shall be made upon the parties to the agency proceeding and their attorneys of record, if any, by:

- (1) Delivering a copy of it to them ~~or by~~;
- (2) mailing a copy of it to them at their last known addresses; *or*
- (3) *transmitting a copy of it to them by electronic means when authorized by supreme court rule or a local rule.*

Delivery of a copy of an order, pleading or other matter means handing it to the person being served or leaving it at that person's principal place of business or residence with a person of suitable age and discretion who works or resides therein. Service shall be presumed if the presiding officer, or a person directed to make service by the presiding officer, makes a written certificate of service. Service by mail is complete upon mailing. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after service of an order, pleading or other matter and it is served by mail *or electronic means*, three days shall be added to the prescribed period. Unless reconsideration is a prerequisite for seeking judicial review, a final order shall state the agency officer to receive service of a petition for judicial review on behalf of the agency.

Sec. 9. K.S.A. 77-502, 77-545, 77-546, 77-548 and 77-613 and K.S.A. 2015 Supp. 77-519, 77-521 and 77-531 are hereby repealed.

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

## CHAPTER 64

## SENATE BILL No. 407

AN ACT concerning civil commitment of sexually violent predators; relating to registration under the Kansas offender registration act; involuntary commitment, transitional release, conditional release; amending K.S.A. 2015 Supp. 22-4903, 22-4904 and 22-4905 and repealing the existing sections; and reviving K.S.A. 59-29a18.

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

Section 1. K.S.A. 2015 Supp. 22-4903 is hereby amended to read as follows: 22-4903. (a) Violation of the Kansas offender registration act is the failure by an offender, as defined in K.S.A. 22-4902, and amendments thereto, to comply with any and all provisions of such act, including any and all duties set forth in K.S.A. 22-4905 through 22-4907, and amendments thereto. Any violation of the Kansas offender registration act which continues for more than 30 consecutive days shall, upon the 31<sup>st</sup> consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate offense every 30 days thereafter for as long as the violation continues.

(b) Aggravated violation of the Kansas offender registration act is violation of the Kansas offender registration act which continues for more than 180 consecutive days. Any aggravated violation of the Kansas offender registration act which continues for more than 180 consecutive days shall, upon the 181<sup>st</sup> consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate violation of the Kansas offender registration act every 30 days thereafter, or a new and separate aggravated violation of the Kansas offender registration act every 180 days thereafter, for as long as the violation continues.

(c) (1) Except as provided in subsection (c)(3), violation of the Kansas offender registration act is:

- (A) Upon a first conviction, a severity level 6, person felony;
- (B) upon a second conviction, a severity level 5, person felony; and
- (C) upon a third or subsequent conviction, a severity level 3, person felony.

(2) Except as provided in subsection (c)(3), aggravated violation of the Kansas offender registration act is a severity level 3, person felony.

(3) Violation of the Kansas offender registration act or aggravated violation of the Kansas offender registration act consisting only of failing to remit payment to the sheriff's office as required in ~~subsection (k) of~~ K.S.A. 22-4905(l), and amendments thereto, is:

(A) Except as provided in subsection (c)(3)(B), a class A misdemeanor if, within 15 days of registration, full payment is not remitted to the sheriff's office;

(B) a severity level 9, person felony if, within 15 days of the most recent registration, two or more full payments have not been remitted to the sheriff's office.



- (d) Prosecution of violations of this section may be held:
- (1) In any county in which the offender resides;
  - (2) in any county in which the offender is required to be registered under the Kansas offender registration act;
  - (3) in any county in which the offender is located during which time the offender is not in compliance with the Kansas offender registration act; or
  - (4) in the county in which any conviction or adjudication occurred for which the offender is required to be registered under the Kansas offender registration act.

Sec. 2. K.S.A. 2015 Supp. 22-4904 is hereby amended to read as follows: 22-4904. (a) (1) At the time of conviction or adjudication for an offense requiring registration as provided in K.S.A. 22-4902, and amendments thereto, the court shall:

(A) Inform any offender, on the record, of the procedure to register and the requirements of K.S.A. 22-4905, and amendments thereto; and

(B) if the offender is released:

(i) Complete a notice of duty to register, which shall include title and statute number of conviction or adjudication, date of conviction or adjudication, case number, county of conviction or adjudication, and the following offender information: Name, address, date of birth, social security number, race, ethnicity and gender;

(ii) require the offender to read and sign the notice of duty to register, which shall include a statement that the requirements provided in this subsection have been explained to the offender;

(iii) order the offender to report within three business days to the registering law enforcement agency in the county or tribal land of conviction or adjudication and to the registering law enforcement agency in any place where the offender resides, maintains employment or attends school, to complete the registration form with all information and any updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto; and

(iv) provide one copy of the notice of duty to register to the offender and, within three business days, send a copy of the form to the law enforcement agency having initial jurisdiction and to the Kansas bureau of investigation.

(2) At the time of sentencing or disposition for an offense requiring registration as provided in K.S.A. 22-4902, and amendments thereto, the court shall ensure the age of the victim is documented in the journal entry of conviction or adjudication.

(3) *Upon commitment for control, care and treatment by the Kansas department for aging and disability services pursuant to K.S.A. 59-29a07, and amendments thereto, the court shall notify the registering law enforcement agency of the county where the offender resides during com-*

*mitment of such offender's commitment. Such notice shall be prepared by the office of the attorney general for transmittal by the court by electronic means, including by fax or e-mail.*

(b) The staff of any correctional facility or the registering law enforcement agency's designee shall:

(1) At the time of initial custody, register any offender within three business days:

(A) Inform the offender of the procedure for registration and of the offender's registration requirements as provided in K.S.A. 22-4905, and amendments thereto;

(B) complete the registration form with all information and updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto;

(C) require the offender to read and sign the registration form, which shall include a statement that the requirements provided in this subsection have been explained to the offender;

(D) provide one copy of the form to the offender and, within three business days, send a copy of the form to the Kansas bureau of investigation; and

(E) enter all offender information required by the national crime information center into the national sex offender registry system within three business days of completing the registration or electronically submit all information and updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto, within three business days to the Kansas bureau of investigation;

(2) notify the Kansas bureau of investigation of the incarceration of any offender and of the location or any change in location of the offender while in custody;

(3) prior to any offender being discharged, paroled, furloughed or released on work or school release that does not require the daily return to a correctional facility:

(A) Inform the offender of the procedure for registration and of the offender's registration requirements as provided in K.S.A. 22-4905, and amendments thereto;

(B) complete the registration form with all information and updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto;

(C) require the offender to read and sign the registration form, which shall include a statement that the requirements provided in this subsection have been explained to the offender;

(D) photograph the offender's face and any identifying marks;

(E) obtain fingerprint and palm prints of the offender; and

(F) provide one copy of the form to the offender and, within three business days, send a copy of the form and of the photograph or photo-

graphs to the law enforcement agency having initial jurisdiction and to the Kansas bureau of investigation; and

(4) notify the law enforcement agency having initial jurisdiction and the Kansas bureau of investigation seven business days prior to any offender being discharged, paroled, furloughed or released on work or school release.

(c) The staff of any treatment facility shall:

(1) Within three business days of an offender's arrival for inpatient treatment, inform the registering law enforcement agency of the county or location of jurisdiction in which the treatment facility is located of the offender's presence at the treatment facility and the expected duration of the treatment, and immediately notify the registering law enforcement agency of an unauthorized or unexpected absence of the offender during the offender's treatment;

(2) inform the registering law enforcement agency of the county or location of jurisdiction in which the treatment facility is located within three business days of an offender's discharge or release; and

(3) provide information upon request to any registering law enforcement agency having jurisdiction relevant to determining the presence of an offender within the treatment facility.

(d) The registering law enforcement agency, upon the reporting of any offender, shall:

(1) Inform the offender of the duty to register as provided by the Kansas offender registration act;

(2) (A) explain the procedure for registration and the offender's registration requirements as provided in K.S.A. 22-4905, and amendments thereto;

(B) obtain the information required for registration as provided in K.S.A. 22-4907, and amendments thereto; and

(C) require the offender to read and sign the registration form, which shall include a statement that the requirements provided in this subsection have been explained to the offender;

(3) complete the registration form with all information and updated information required for registration, as provided in K.S.A. 22-4907, and amendments thereto, each time the offender reports to the registering law enforcement agency. All information and updated information reported by an offender shall be forwarded to the Kansas bureau of investigation within three business days;

(4) maintain the original signed registration form, provide one copy of the completed registration form to the offender and, within three business days, send one copy of the completed form to the Kansas bureau of investigation;

(5) forward a copy of any certified letter used for reporting pursuant to K.S.A. 22-4905, and amendments thereto, when utilized, within three business days to the Kansas bureau of investigation;

(6) obtain registration information from every offender required to register regardless of whether or not the offender remits payment;

(7) upon every required reporting, update the photograph or photographs of the offender's face and any new identifying marks and immediately forward copies or electronic files of the photographs to the Kansas bureau of investigation;

(8) enter all offender information required by the national crime information center into the national sex offender registry system within three business days of completing the registration or electronically submit all information and updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto, within three business days to the Kansas bureau of investigation;

(9) maintain a special fund for the deposit and maintenance of fees paid by offenders. All funds retained by the registering law enforcement agency pursuant to the provisions of this section shall be credited to a special fund of the registering law enforcement agency which shall be used solely for law enforcement and criminal prosecution purposes and which shall not be used as a source of revenue to reduce the amount of funding otherwise made available to the registering law enforcement agency; and

(10) forward any initial registration and updated registration information within three business days to any out of state jurisdiction where the offender is expected to reside, maintain employment or attend school.

(e) (1) The Kansas bureau of investigation shall:

(A) Forward all additions or changes in information to any registering law enforcement agency, other than the agency that submitted the form, where the offender expects to reside, maintain employment or attend school;

(B) ensure that offender information is immediately entered in the state registered offender database and the Kansas registered offender website, as provided in K.S.A. 22-4909, and amendments thereto;

(C) transmit offender conviction or adjudication data, fingerprints and palm prints to the federal bureau of investigation; and

(D) ensure all offender information required by the national crime information center is transmitted into the national sex offender registry system within three business days of such information being electronically submitted to the Kansas bureau of investigation.

(2) The director of the Kansas bureau of investigation may adopt rules and regulations necessary to implement the provisions of the Kansas offender registration act.

(f) The attorney general shall, within 10 business days of an offender being declared a sexually violent predator, forward to the Kansas bureau of investigation all relevant court documentation declaring an offender a sexually violent predator.

(g) The state department of education shall annually notify any school

of the Kansas bureau of investigation internet website, and any internet website containing information on the Kansas offender registration act sponsored or created by the registering law enforcement agency of the county or location of jurisdiction in which the school is located, for the purpose of locating offenders who reside near such school. Such notification shall include information that the registering law enforcement agency of the county or location of jurisdiction where such school is located is available to the school to assist in using the registry and providing additional information on registered offenders.

(h) The secretary of health and environment shall annually notify any licensed child care facility of the Kansas bureau of investigation internet website, and any internet website containing information on the Kansas offender registration sponsored or created by the registering law enforcement agency of the county in which the facility is located, for the purpose of locating offenders who reside near such facility. Such notification shall include information that the registering law enforcement agency of the county or location of jurisdiction where such child care facility is located is available to the child care facilities to assist in using the registry and providing additional information on registered offenders.

(i) Upon request, the clerk of any court of record shall provide the Kansas bureau of investigation copies of complaints, indictments, information, journal entries, commitment orders or any other documents necessary to the performance of the duties of the Kansas bureau of investigation under the Kansas offender registration act. No fees or charges for providing such documents may be assessed.

Sec. 3. K.S.A. 2015 Supp. 22-4905 is hereby amended to read as follows: 22-4905. Any offender required to register as provided in the Kansas offender registration act shall:

(a) Except as otherwise provided in this subsection, register in person with the registering law enforcement agency within three business days of coming into any county or location of jurisdiction in which the offender resides or intends to reside, maintains employment or intends to maintain employment, or attends school or intends to attend school. Any such offender who cannot physically register in person with the registering law enforcement agency for such reasons including, but not limited to, incapacitation or hospitalization, as determined by a person licensed to practice medicine or surgery, *or involuntarily committed pursuant to the Kansas sexually violent predator act*, shall be subject to verification requirements other than in-person registration, as determined by the registering law enforcement agency having jurisdiction;

(b) except as provided further, for any: (1) Sex offender, including a violent offender or drug offender who is also a sex offender, report in person four times each year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, main-

tains employment or is attending a school; and (2) violent offender or drug offender, report in person four times each year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or is attending a school, except that, at the discretion of the registering law enforcement agency, one of the four required reports may be conducted by certified letter. When utilized, the certified letter for reporting shall be sent by the registering law enforcement agency to the reported residence of the offender. The offender shall indicate any changes in information as required for reporting in person. The offender shall respond by returning the certified letter to the registering law enforcement agency within 10 business days by certified mail. The offender shall be required to report to the registering law enforcement agency once during the month of the offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday. The registering law enforcement agency may determine the appropriate times and days for reporting by the offender, consistent with this subsection. Nothing contained in this subsection shall be construed to alleviate any offender from meeting the requirements prescribed in the Kansas offender registration act;

(c) provide the information required for registration as provided in K.S.A. 22-4907, and amendments thereto, and verify all information previously provided is accurate;

(d) if in the custody of a correctional facility, register with the correctional facility within three business days of initial custody and shall not be required to update such registration until discharged, paroled, furloughed or released on work or school release from a correctional facility. A copy of the registration form and any updated registrations for an offender released on work or school release shall be sent, within three business days, to the registering law enforcement agency where the offender is incarcerated, maintains employment or attends school, and to the Kansas bureau of investigation;

(e) *if involuntarily committed pursuant to the Kansas sexually violent predator act, register within three business days of arrival in the county where the offender resides during commitment. The offender shall not be required to update such registration until placed in a reintegration facility, on transitional release or on conditional release. Upon placement in a reintegration facility, on transitional release or on conditional release, the offender shall be personally responsible for complying with the provisions of the Kansas offender registration act;*

(f) notwithstanding subsections (a) and (b), if the offender is transient, report in person to the registering law enforcement agency of such county or location of jurisdiction in which the offender is physically present within three business days of arrival in the county or location of jurisdiction. Such offender shall be required to register in person with the

registering law enforcement agency every 30 days, or more often at the discretion of the registering law enforcement agency. Such offender shall comply with the provisions of the Kansas offender registration act and, in addition, shall:

(1) Provide a list of places where the offender has slept and otherwise frequented during the period of time since the last date of registration; and

(2) provide a list of places where the offender may be contacted and where the offender intends to sleep and otherwise frequent during the period of time prior to the next required date of registration;

~~(g)~~ (g) if required by out of state law, register in any out of state jurisdiction, where the offender resides, maintains employment or attends school;

~~(g)~~ (h) register in person upon any commencement, change or termination of residence location, employment status, school attendance or other information as provided in K.S.A. 22-4907, and amendments thereto, within three business days of such commencement, change or termination, to the registering law enforcement agency or agencies where last registered and provide written notice to the Kansas bureau of investigation;

~~(h)~~ (i) report in person to the registering law enforcement agency or agencies within three business days of any change in name;

~~(i)~~ (j) if receiving inpatient treatment at any treatment facility, inform the treatment facility of the offender's status as an offender and inform the registering law enforcement agency of the county or location of jurisdiction in which the treatment facility is located of the offender's presence at the treatment facility and the expected duration of the treatment;

~~(j)~~ (k) submit to the taking of an updated photograph by the registering law enforcement agency on each occasion when the offender registers with or reports to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or attends school. In addition, such offender shall submit to the taking of a photograph to document any changes in identifying characteristics, including, but not limited to, scars, marks and tattoos;

~~(k)~~ (l) remit payment to the sheriff's office in the amount of \$20 as part of the reporting process required pursuant to subsection (b) in each county in which the offender resides, maintains employment or is attending school. Registration will be completed regardless of whether or not the offender remits payment. Failure of the offender to remit full payment within 15 days of registration is a violation of the Kansas offender registration act and is subject to prosecution pursuant to K.S.A. 22-4903, and amendments thereto. Notwithstanding other provisions herein, payment of this fee is not required:

(1) When an offender provides updates or changes in information or during an initial registration unless such updates, changes or initial reg-

istration is during the month of such offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday;

(2) when an offender is transient and is required to register every 30 days, or more frequently as ordered by the registering law enforcement agency, except during the month of the offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday; or

(3) if an offender has, prior to the required reporting and within the last three years, been determined to be indigent by a court of law, and the basis for that finding is recorded by the court;

~~(m)~~ (m) annually renew any driver's license pursuant to K.S.A. 8-247, and amendments thereto, and annually renew any identification card pursuant to K.S.A. 2015 Supp. 8-1325a, and amendments thereto;

~~(n)~~ (n) if maintaining primary residence in this state, surrender all driver's licenses and identification cards from other states, territories and the District of Columbia, except if the offender is presently serving and maintaining active duty in any branch of the United States military or the offender is an immediate family member of a person presently serving and maintaining active duty in any branch of the United States military;

~~(o)~~ (o) read and sign the registration form noting whether the requirements provided in this section have been explained to the offender; and

~~(p)~~ (p) report in person to the registering law enforcement agency in the jurisdiction of the offender's residence and provide written notice to the Kansas bureau of investigation 21 days prior to any travel outside of the United States, and provide an itinerary including, but not limited to, destination, means of transport and duration of travel, or if under emergency circumstances, within three business days of making travel arrangements.

Sec. 4. K.S.A. 59-29a18 is hereby revived to read as follows: 59-29a18. (a) During any period the person is in transitional release, the person committed under this act at least annually, and at any other time deemed appropriate by the treatment staff, shall be examined by the treatment staff to determine if the person's mental abnormality or personality disorder has so changed so as to warrant such person being considered for conditional release. The treatment staff shall forward a report of its examination to the court. The court shall review the same. If the court determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be placed in conditional release, the court shall then set a hearing on the issue. The attorney general shall have the burden of proof to show beyond a reasonable doubt that the person's mental abnormality or personality disorder remains such that the person is not safe to be at large



and that if placed on conditional release is likely to engage in repeat acts of sexual violence. The person shall have the same rights as enumerated in K.S.A. 59-29a06 and amendments thereto. Subsequent to either a court review or a hearing, the court shall issue an appropriate order with findings of fact. The order of the court shall be provided to the attorney general, the person and the secretary.

(b) If, after the hearing, the court is convinced beyond a reasonable doubt that the person is not appropriate for conditional release, the court shall order that the person remain either in secure commitment or in transitional release. Otherwise, the court shall order that the person be placed on conditional release.

Sec. 5. K.S.A. 2015 Supp. 22-4903, 22-4904 and 22-4905 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 9, 2016.

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## CHAPTER 65

### SENATE BILL No. 326

AN ACT concerning alcoholic beverages; amending K.S.A. 2015 Supp. 41-102, 41-308b, 41-308b, as amended by section 1 of this act, and 41-311 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 41-308b is hereby amended to read as follows: 41-308b. (a) A microbrewery license shall allow:

(1) The manufacture of not less than 100 nor more than ~~30,000~~ 60,000 barrels of domestic beer during the calendar year and the storage thereof, *if, however, the licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, then the aggregate number of barrels of domestic beer manufactured by all such licensees with such common ownership shall not exceed the 60,000 barrel limit;*

(2) the sale to beer distributors of beer, manufactured by the licensee;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of beer manufactured by the licensee;

(4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of beer manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the ~~licensee~~ *premises* is also licensed as a club or drinking establishment, *the sale and transfer of domestic beer to such club or drinking establishment and the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;* ~~and~~

(6) if the ~~licensee~~ *premises* is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act; *and*

(7) *if the licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, the domestic beer may be manufactured and transferred for sale or storage among such microbrewery licensees with such common ownership.*

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a microbrewery licensee, the director may issue not to exceed one microbrewery packaging and warehousing facility license to the microbrewery licensee. A microbrewery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microbrewery to the licensed premises of the microbrewery packaging and warehousing facility, of beer manufactured by the licensee, for the purpose of packaging or storage, or both; and

(2) the transfer, from the licensed premises of the microbrewery packaging and warehousing facility to the licensed premises of ~~the any~~ *microbrewery of such licensee*, of beer manufactured by the licensee; or

(3) the removal from the licensed premises of the microbrewery packaging and warehousing facility of beer manufactured by the licensee for the purpose of delivery to a licensed beer wholesaler.

(c) A microbrewery may sell domestic beer in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a microbrewery may serve samples of domestic beer and serve and sell domestic beer and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(d) The director may issue to the Kansas state fair or any bona fide group of brewers a permit to import into this state small quantities of beer. Such beer shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such beer shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of beer to be imported, the quantity to be imported, the tasting programs for which the beer is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of beer pur-

suant to this subsection and the conduct of tasting programs for which such beer is imported.

(e) A microbrewery license or microbrewery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(f) No microbrewery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(g) Whenever a microbrewery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

Sec. 2. K.S.A. 2015 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;

(14) who does not provide any data or information required by K.S.A. 2015 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 ne-

glect 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)~~(2) 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)~~(3) 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)~~(4) copartnership, unless all of the copartners are qualified to obtain a license;

~~(6)~~(5) 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)~~(6) 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. 2015 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10<sup>th</sup>, 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. 3. From and after January 1, 2017, K.S.A. 2015 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) *“Hard cider” means any alcoholic beverage that:*

(1) *Contains less than 8.5% alcohol by volume;*

(2) *has a carbonation level that does not exceed 6.4 grams per liter; and*

(3) *is obtained by the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including such beverages containing sugar added for the purpose of correcting natural deficiencies.*

~~(n)~~(o) “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)~~(p) (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)~~(q) “Microbrewery” means a brewery licensed by the director to manufacture, store and sell domestic beer and *hard cider*.

~~(q)~~(r) “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)~~(s) “Minor” means any person under 21 years of age.

~~(s)~~(t) “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)~~(u) “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)~~(v) “Person” means any natural person, corporation, partnership, trust or association.

~~(v)~~(w) “Powdered alcohol” means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a non-alcoholic liquid.

~~(w)~~(x) “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.

~~(x)~~(y) (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.

~~(y)~~(z) “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.

~~(z)~~(aa) “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.

~~(aa)~~(bb) “Secretary” means the secretary of revenue.

~~(bb)~~(cc) (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.

~~(cc)~~(dd) “To sell” includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

~~(dd)~~(ee) “Sleeve” means a package of two or more 50-milliliter (3.2-fluid-ounce) containers of spirits.

~~(ee)~~(ff) “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.

~~(ff)~~(gg) “Supplier” means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

~~(gg)~~(hh) “Temporary permit” has the meaning provided by K.S.A. 41-2601, and amendments thereto.

~~(hh)~~(ii) “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. *The term “wine” shall include hard cider and any other product that is commonly known as a subset of wine.*

Sec. 4. From and after January 1, 2017, K.S.A. 2015 Supp. 41-308b, as amended by section 1 of this act, is hereby amended to read as follows: 41-308b. (a) A microbrewery license shall allow:

(1) The manufacture of not less than 100 nor more than 60,000 barrels of domestic beer during the calendar year and the storage thereof, if, however, the licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, then the aggregate number of barrels of domestic beer manufactured by all such ~~licensees~~ licensees with such common ownership shall not exceed the 60,000 barrel limit;

(2) *the manufacture in the aggregate of not more than 100,000 gallons of hard cider during the calendar year and the storage thereof;*

(3) *the sale to beer distributors of beer and the sale to wine distributors of hard cider, manufactured by the licensee;*

~~(3)~~(4) *the sale, on the licensed premises in the original unopened*

container to consumers for consumption off the licensed premises, of beer *and hard cider* manufactured by the licensee;

~~(4)~~(5) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of beer *and hard cider* manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

~~(5)~~(6) if the premises is also licensed as a club or drinking establishment, the sale and transfer of domestic beer to such club or drinking establishment and the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

~~(6)~~(7) if the premises is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act; and

~~(7)~~(8) if the licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, the domestic beer may be manufactured and transferred for sale or storage among such microbrewery ~~licenses~~ licensees with such common ownership.

(b) *Not less than 30% of the products utilized in the manufacture of hard cider by a microbrewery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The production requirement of this subsection shall be determined based on the annual production of domestic hard cider.*

(c) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a microbrewery licensee, the director may issue not to exceed one microbrewery packaging and warehousing facility license to the microbrewery licensee. A microbrewery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microbrewery to the licensed premises of the microbrewery packaging and warehousing facility, of beer *and hard cider* manufactured by the licensee, for the purpose of packaging or storage, or both; ~~and~~

(2) the transfer, from the licensed premises of the microbrewery packaging and warehousing facility to the licensed premises of any microbrewery of such licensee, of beer manufactured by the licensee; ~~or~~

(3) the removal from the licensed premises of the microbrewery packaging and warehousing facility of beer manufactured by the licensee for the purpose of delivery to a licensed beer wholesaler; *and*

(4) *the removal from the licensed premises of the microbrewery packaging and warehousing facility of hard cider manufactured by the licensee for the purpose of delivery to a licensed wine distributor.*

~~(e)~~(d) A microbrewery may sell domestic beer in the original unopened container to consumers for consumption off the licensed premises

at any time between 6 a.m. and 12 midnight on any day except Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a microbrewery may serve samples of domestic beer and serve and sell domestic beer and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

~~(d)~~(e) The director may issue to the Kansas state fair or any bona fide group of brewers a permit to import into this state small quantities of beer. Such beer shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such beer shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of beer to be imported, the quantity to be imported, the tasting programs for which the beer is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of beer pursuant to this subsection and the conduct of tasting programs for which such beer is imported.

~~(e)~~(f) A microbrewery license or microbrewery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

~~(f)~~(g) No microbrewery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

~~(g)~~(h) Whenever a microbrewery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

Sec. 5. K.S.A. 2015 Supp. 41-308b and 41-311 are hereby repealed.

Sec. 6. From and after January 1, 2017, K.S.A. 2015 Supp. 41-102 and K.S.A. 2015 Supp. 41-308b, as amended by section 1 of this act, are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 66

Senate Substitute for HOUSE BILL No. 2088

AN ACT concerning property taxation; amending K.S.A. 79-1466 and 79-1467 and K.S.A. 2015 Supp. 25-432, 79-5a27, 79-1801 and 79-2925b and repealing the existing sections; also repealing K.S.A. 13-907.

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

Section 1. K.S.A. 2015 Supp. 79-5a27 is hereby amended to read as follows: 79-5a27. ~~On or before June 15, 1989, and~~ On or before June 15 ~~I~~ each year ~~thereafter~~, the director of property valuation shall certify to the county clerk of each county the amount of assessed valuation apportioned to each taxing unit therein for properties valued and assessed under K.S.A. 79-5a01 et seq., and amendments thereto. The county clerk shall include such assessed valuations in the applicable taxing districts with all other assessed valuations in those taxing districts and on or before ~~July 1~~ June 15 notify the appropriate officials of each taxing district within the county of the assessed valuation estimates to be utilized in the preparation of budgets for ad valorem tax purposes. If in any year the county clerk has not received the applicable valuations from the director of property valuation, the county clerk shall use the applicable assessed valuations of the preceding year as an estimate for such notification. If the public utility has filed an application for exemption of all or a portion of its property, the director shall notify the county clerk that the exemption application has been filed and the county clerk shall not be required to include such assessed valuation in the applicable taxing districts until such time as the application is denied by the state board of tax appeals or, if judicial review of the board's order is sought, until such time as judicial review is finalized.

Sec. 2. K.S.A. 79-1466 is hereby amended to read as follows: 79-1466. Commencing on January 1 of each year, the county or district appraiser shall transmit the taxable real property appraisals and the exempt real property appraisals to the county clerk continually upon the completion thereof.

Upon completion of transmission of such appraisals to the county clerk, on or before June 15 ~~I~~ of each year, the county or district appraiser shall deliver a document certifying that such appraisals constitute the complete appraisal rolls for real property.

The taxable real property appraisal roll shall consist of all real property appraisals which in aggregate list all taxable land and improvements located within the county.

The exempt real property appraisal roll shall consist of all real property appraisals which in aggregate list all exempt land and improvements located within the county.

All transmissions required by this section may be made electronically.

Sec. 3. K.S.A. 79-1467 is hereby amended to read as follows: 79-1467. Commencing on January 1 of each year, the county or district appraiser shall transmit the taxable personal property appraisals to the county clerk continually upon the completion thereof. Upon completion of transmission of such appraisals to the county clerk, on or before June 15 1 each year, the county or district appraiser shall deliver a document certifying that such appraisals constitute the complete appraisal rolls for personal property except for personal property which may be subject to investigation and valuation pursuant to law or personal property which may have escaped appraisal in any year, in which cases the appraiser shall transmit to the clerk, upon completion, the appraisals of such property and the clerk shall add the same to the taxable personal property roll at such time.

The taxable personal property roll shall consist of all personal property appraisals completed by the county or district appraiser.

The exempt personal property roll shall include all personal property appraisals completed by the county or district appraiser on personal property that is exempt from ad valorem taxation and is required to be listed with the county or district appraiser.

All transmissions required by this section may be made electronically.

Sec. 4. K.S.A. 2015 Supp. 79-1801 is hereby amended to read as follows: 79-1801. (a) Except as provided by subsection (b), each year the governing body of any city, the trustees of any township, the board of education of any school district and the governing bodies of all other taxing subdivisions shall certify, on or before August 25, to the proper county clerk the amount of ad valorem tax to be levied. Thereupon, the county clerk shall place the tax upon the tax roll of the county, in the manner prescribed by law, and the tax shall be collected by the county treasurer. The county treasurer shall distribute the proceeds of the taxes levied by each taxing subdivision in the manner provided by K.S.A. 12-1678a, and amendments thereto.

(b) ~~In 2005, the board of education of any school district shall certify, on or before September 7~~ *If the governing body of a city or county must conduct an election for an increase in property tax to fund any appropriation or budget under section 7, and amendments thereto, the governing body of the city or county shall certify, on or before October 1, to the proper county clerk the amount of ad valorem tax to be levied.*

Sec. 5. K.S.A. 2015 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. 76-6b01 and 76-6b04 and K.S.A. 2015 Supp. 72-6470, and amendments thereto, and any other ad valorem tax levy which was previously approved by the voters of such municipality. ~~Except as provided in subsection (g),~~ Notwithstanding the requirements of this subsection, nothing herein shall prohibit a municipality from increasing the amount of ad valorem tax to be levied if the municipality approves the *proposed* increase with a majority vote of the governing body by the adoption of a resolution and publishes ~~such its vote to approve the appropriation or budget including the increase 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: (1) "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; (2) "municipality" shall not include:

(A) Any such political subdivision or taxing district which receives \$1,000 or less in revenue from property taxes in the current year; or

(B) *any city or county.*

~~(g) On and after January 1, 2018: (1) In the case of cities and counties, any resolution by the governing body otherwise required by this section to adopt any appropriation or budget which provides for funding by property tax revenue in an amount exceeding that of the next preceding year as adjusted pursuant to subsection (a) to reflect changes in the consumer price index, shall not become effective unless such resolution has been submitted to and approved by a majority of the qualified electors of the city or county voting at an election called and held thereon, except as otherwise provided. The election shall be called and held in the manner provided by K.S.A. 10-120, and amendments thereto, at the next regularly scheduled election to be held in August or November, or may be a mail ballot election, conducted in accordance with K.S.A. 25-431 et seq., and amendments thereto, or may be a special election called by the city or county. Nothing in this subsection shall prevent any city or county from holding more than one election in any year.~~

~~(2) A resolution by the governing body of a city or county otherwise required by the provisions of this section shall not be required to be approved by an election required by subsection (g)(1) under the following circumstances:~~

~~(A) The increase in the amount of ad valorem tax to be levied that is greater than the change in the consumer price index is due to:~~

~~(i) Costs for new infrastructure or improvements to existing infrastructure to support new improvements to property exempt from property taxation pursuant to the provisions of K.S.A. 79-201 et seq., and amendments thereto, such as hospitals, schools and churches, or exempt additions to or improvements to property so exempt from property taxation;~~

~~(ii) bond and interest payments;~~

~~(iii) an increase in property subject to taxation as the result of the expiration of any abatement of property from property tax;~~

~~(iv) increases in road construction costs when such construction has been once approved by a resolution of the governing body of the city or county;~~

~~(v) special assessments;~~

~~(vi) judgments levied against the city or county or expenses for legal counsel and for defense of legal actions against the city or county or officers of the city or county;~~

~~(vii) new expenditures that are specifically mandated by federal or state law, or~~

~~(viii) an increase in property subject to taxation as the result of new construction;~~

~~(B) the assessed valuation has declined in one or more of the next preceding three calendar years and the increase in the amount of funding for the budget or appropriation from revenue produced from property~~



~~taxes does not exceed the average amount of funding from such revenue of the next preceding three calendar years, 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, or~~

~~(C) the increase in the amount of ad valorem tax to be levied is less than the change in the consumer price index plus the loss of assessed property valuation that has occurred as the result of legislative action, judicial action or a ruling by the board of tax appeals.~~

New Sec. 6. (a) (1) On and after January 1, 2017, the governing body of any city or county shall not approve any appropriation or budget which provides for funding by property tax revenues in an amount exceeding that of the next preceding year as adjusted to reflect the average changes in the consumer price index for all urban consumers as published by the United States department of labor for the preceding five calendar years, which shall not be less than zero, unless the city or county approves the appropriation or budget with the adoption of a resolution and such resolution has been submitted to and approved by a majority of the qualified electors of the city or county voting at an election called and held thereon, except as otherwise provided.

(2) The election shall be called and held in the manner provided by K.S.A. 10-120, and amendments thereto, and may be:

(A) Held at the next regularly scheduled election to be held in August or November;

(B) may be a mail ballot election, conducted in accordance with K.S.A. 25-431 et seq., and amendments thereto; or

(C) may be a special election called by the city or county. Nothing in this subsection shall prevent any city or county from holding more than one election in any year. The city or county requesting the election shall be responsible for paying all costs associated with conducting the election.

(b) A resolution by the governing body of a city or county otherwise required by the provisions of this section shall not be required to be approved by an election required by subsection (a) under the following circumstances:

(1) Increased property tax revenues that, in the current year, are produced and attributable to the taxation of:

(A) The construction of any new structures or improvements or the remodeling or renovation of any existing structures or improvements on real property, which shall not include any ordinary maintenance or repair of any existing structures or improvements on the property;

(B) increased personal property valuation;

(C) real property located within added jurisdictional territory;

(D) real property which has changed in use;

(E) expiration of any abatement of property from property tax; or

(F) expiration of a tax increment financing district, rural housing in-

centive district, neighborhood revitalization area or any other similar property tax rebate or redirection program.

(2) Increased property tax revenues that will be spent on:

(A) Bond, temporary notes, no fund warrants, state infrastructure loans and interest payments not exceeding the amount of ad valorem property taxes levied in support of such payments, and payments made to a public building commission and lease payments but only to the extent such payments were obligations that existed prior to July 1, 2016;

(B) payment of special assessments not exceeding the amount of ad valorem property taxes levied in support of such payments;

(C) court judgments or settlements of legal actions against the city or county and legal costs directly related to such judgments or settlements;

(D) expenditures of city or county funds that are specifically mandated by federal or state law with such mandates becoming effective on or after July 1, 2015, and loss of funds from federal sources after January 1, 2017, where the city or county is contractually obligated to provide a service;

(E) expenses relating to a federal, state or local disaster or federal, state or local emergency, including, but not limited to, a financial emergency, declared by a federal or state official. The board of county commissioners may request the governor to declare such disaster or emergency; or

(F) increased costs above the consumer price index for law enforcement, fire protection or emergency medical services.

(3) Any increased property tax revenues generated for law enforcement, fire protection or emergency medical services shall be expended exclusively for these purposes but shall not be used for the construction or remodeling of buildings.

(4) The property tax revenues levied by the city or county have declined: (A) In one or more of the next preceding three calendar years and the increase in the amount of funding for the budget or appropriation from revenue produced from property taxes does not exceed the average amount of funding from such revenue of the next preceding three calendar years, 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; or

(B) the increase in the amount of ad valorem tax to be levied is less than the change in the consumer price index plus the loss of assessed property valuation that has occurred as the result of legislative action, judicial action or a ruling by the board of tax appeals.

(5) Whenever a city or county is required by law to levy taxes for the financing of the budget of any political or governmental subdivision of this state that is not authorized by law to levy taxes on its own behalf, and the governing body of such city or county is not authorized or empowered

to modify or reduce the amount of taxes levied therefore, the tax levies of the political or governmental subdivision shall not be included in or considered in computing the aggregate limitation upon the property tax levies of the city or county.

New Sec. 7. If the city or county elects to conduct the election required under section 6, and amendments thereto, using a mail ballot election, the city or county shall certify to the county clerk and the election officer for the county no later than July 1 that an election shall be necessary to approve the resolution. Upon notification from a city or county pursuant to section 6, and amendments thereto, the election officer for the county shall set the election to be conducted in accordance with K.S.A. 25-431 et seq., and amendments thereto, on the September 15 following the notification, or if September 15 is a Sunday, the next business day. The county board of canvassers shall conduct a canvass of the election no later than the 5th day following the date of the election.

Sec. 8. K.S.A. 2015 Supp. 25-432 is hereby amended to read as follows: 25-432. An election shall not be conducted under this act unless:

(a) Conducted on a date, mutually agreed upon by the governing body of the political or taxing subdivision and the county election officer, not later than 120 days following the date the request is submitted by the political or taxing subdivision;

(b) the secretary of state approves a written plan for conduct of the election, which shall include a written timetable for the conduct of the election, submitted by the county election officer;

(c) the election is nonpartisan;

(d) the election is not one at which any candidate is elected, retained or recalled;

(e) the election is not held on the same date as another election in which the qualified electors of that subdivision of government are eligible to cast ballots, *except this restriction shall not apply to mail ballot elections held under section 6, and amendments thereto*; and

(f) the election is a question submitted election at which all of the qualified electors of one of the following subdivisions of government are the only electors eligible to vote:

(1) Counties;

(2) cities;

(3) school districts, except in an election held pursuant to K.S.A. 72-7302 et seq., and amendments thereto;

(4) townships;

(5) benefit districts organized under K.S.A. 31-301, and amendments thereto;

(6) cemetery districts organized under K.S.A. 15-1013 or 17-1330, and amendments thereto;

(7) combined sewer districts organized under K.S.A. 19-27,169, and amendments thereto;

(8) community college districts organized under K.S.A. 71-1101 et seq., and amendments thereto;

(9) fire districts organized under K.S.A. 19-3601 or 80-1512, and amendments thereto;

(10) hospital districts;

(11) improvement districts organized under K.S.A. 19-2753, and amendments thereto;

(12) Johnson county park and recreation district organized under K.S.A. 19-2859, and amendments thereto;

(13) sewage disposal districts organized under K.S.A. 19-27,140, and amendments thereto;

(14) water districts organized under K.S.A. 19-3501 et seq., and amendments thereto;

(15) transportation development districts created pursuant to K.S.A. 2015 Supp. 12-17,140 et seq., and amendments thereto; or

(16) any tract of land annexed pursuant to K.S.A. ~~15-521~~ 12-521, and amendments thereto.

Sec. 9. K.S.A. 13-907, 79-1466 and 79-1467 and K.S.A. 2015 Supp. 25-432, 79-5a27, 79-1801 and 79-2925b 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 9, 2016.

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## CHAPTER 67

HOUSE BILL No. 2163\*

AN ACT concerning audits of certain fire districts.

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

Section 1. The board of county commissioners of any county may order an audit of any fire district located within the county created under article 15 of chapter 80 or article 36 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto. The township or townships which comprise the fire district shall be responsible for payment of the cost of the audit.

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

Approved May 9, 2016.

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## CHAPTER 68

Senate Substitute for HOUSE BILL No. 2285

AN ACT reconciling amendments to certain statutes; amending K.S.A. 2015 Supp. 44-706 and repealing the existing section; also repealing K.S.A. 2015 Supp. 17-7673b, 17-7674b, 17-7677b, 38-2310a, 44-706c, 59-29a24a and 65-2895a.

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

Section 1. K.S.A. 2015 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 considered a voluntary resignation. After a temporary job assignment, failure of an individual to affirmatively request an additional assignment on the next succeeding workday, if required by the employment agreement, after completion of a given work assignment, shall constitute leaving work voluntarily. The disqualification shall begin the day following the separation and shall continue until after the individual has become reemployed and has had earnings from insured work of at least three times the individual's weekly benefit amount. An individual shall not be disqualified under this subsection if:

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

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

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

(4) the spouse of an individual who is a member of the armed forces of the United States who left work because of the voluntary or involuntary transfer of the individual's spouse from one job to another job, which is for the same employer or for a different employer, at a geographic 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. 2015 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through ~~21-6421~~ 21-6422, 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. 2015 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 sec-

retary 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 educa-

tional institution as defined in 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 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 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 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 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 revenue code of 1986 which is exempt from income under section 501(a) of the code.

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

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

(2) the individual is attending approved training as defined in 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 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 unemployment benefits may be subject to periodic drug screening, as determined by the secretary of labor. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or recipient of unemployment benefits shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from unemployment benefits for a period of 12 months, or until such applicant for or recipient of unemployment benefits completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or a recipient of unemployment benefits shall be terminated from receiving unemployment benefits, subject to applicable federal law.

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

(u) If the individual was found not to have a disqualifying adjudication or conviction under K.S.A. 39-970 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. 2. K.S.A. 2015 Supp. 17-7673b, 17-7674b, 17-7677b, 38-2310a, 44-706, 44-706c, 59-29a24a and 65-2895a are hereby repealed.

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

Approved May 9, 2016.

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## CHAPTER 69

Substitute for HOUSE BILL No. 2289

AN ACT concerning driving; relating to driving under the influence of alcohol or drugs; test refusal or failure; suspension of license; administrative hearing; procedure; amending K.S.A. 2015 Supp. 8-1002 and 8-1020 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 8-1002 is hereby amended to read as follows: 8-1002. (a) Whenever a test is requested pursuant to this act and results in either a test failure or test refusal, a law enforcement officer's certification shall be prepared. If the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, a separate certification pursuant to K.S.A. 8-2,145, and amendments thereto, shall be prepared in addition to any certification required by this section. The certification required by this section shall be signed by one or more officers to certify:

(1) With regard to a test refusal, that: (A) There existed reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, or is under 21 years of age while having alcohol or other drugs in such person's system; (B) the person had been placed under arrest, was in custody or had been involved in a vehicle accident or collision; (C) a law enforcement officer

had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; and (D) the person refused to submit to and complete a test as requested by a law enforcement officer.

(2) With regard to a test failure, that: (A) There existed reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, or is under 21 years of age while having alcohol or other drugs in such person's system; (B) the person had been placed under arrest, was in custody or had been involved in a vehicle accident or collision; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; and (D) the result of the test showed that the person had an alcohol concentration of .08 or greater in such person's blood or breath.

(3) With regard to failure of a breath test, in addition to those matters required to be certified under subsection (a)(2), that: (A) The testing equipment used was certified by the Kansas department of health and environment; (B) the testing procedures used were in accordance with the requirements set out by the Kansas department of health and environment; and (C) the person who operated the testing equipment was certified by the Kansas department of health and environment to operate such equipment.

(b) For purposes of this section, certification shall be complete upon signing, and no additional acts of oath, affirmation, acknowledgment or proof of execution shall be required. The signed certification or a copy or photostatic reproduction thereof shall be admissible in evidence in all proceedings brought pursuant to this act, and receipt of any such certification, copy or reproduction shall accord the department authority to proceed as set forth herein. Any person who signs a certification submitted to the division knowing it contains a false statement is guilty of a class B nonperson misdemeanor.

(c) When the officer directing administration of the testing determines that a person has refused a test and the criteria of subsection (a)(1) have been met or determines that a person has failed a test and the criteria of subsection (a)(2) have been met, the officer shall serve upon the person notice of suspension of driving privileges pursuant to K.S.A. 8-1014, and amendments thereto. If the determination is made while the person is still in custody, service shall be made in person by the officer on behalf of the division of vehicles. In cases where a test failure is established by a subsequent analysis of a breath, blood or urine sample, the officer shall serve notice of such suspension in person or by another designated officer or by mailing the notice to the person at the address provided at the time of the test.

(d) In addition to the information required by subsection (a), the law enforcement officer's certification and notice of suspension shall contain

the following information: (1) The person's name, driver's license number and current address; (2) the reason and statutory grounds for the suspension; (3) the date notice is being served and a statement that the effective date of the suspension shall be the 30<sup>th</sup> day after the date of service; (4) the right of the person to request an administrative hearing; and (5) the procedure the person must follow to request an administrative hearing. The law enforcement officer's certification and notice of suspension shall also inform the person that: (1) *Constitutional issues cannot be decided at the administrative hearing, but may be preserved and raised in a petition for review of the hearing as provided in K.S.A. 8-1020(o) and (p), and amendments thereto; and* (2) all correspondence will be mailed to the person at the address contained in the law enforcement officer's certification and notice of suspension unless the person notifies the division in writing of a different address or change of address. The address provided will be considered a change of address for purposes of K.S.A. 8-248, and amendments thereto, if the address furnished is different from that on file with the division.

(e) If a person refuses a test or if a person is still in custody when it is determined that the person has failed a test, the officer shall take any license in the possession of the person and, if the license is not expired, suspended, revoked or canceled, shall issue a temporary license effective until the 30<sup>th</sup> day after the date of service set out in the law enforcement officer's certification and notice of suspension. If the test failure is established by a subsequent analysis of a breath or blood sample, the temporary license shall be served together with the copy of the law enforcement officer's certification and notice of suspension. A temporary license issued pursuant to this subsection shall bear the same restrictions and limitations as the license for which it was exchanged. Within seven days after the date of service of a copy of the law enforcement officer's certification and notice of suspension the officer's certification and notice of suspension, along with any licenses taken, shall be forwarded to the division.

(f) Upon receipt of the law enforcement officer's certification, the division shall review the certification to determine that it meets the requirements of subsection (a). Upon so determining, the division shall proceed to suspend the person's driving privileges in accordance with the notice of suspension previously served. If the requirements of subsection (a) are not met, the division shall dismiss the administrative proceeding and return any license surrendered by the person.

(g) The division shall prepare and distribute forms for use by law enforcement officers in giving the notice required by this section.

(h) The provisions of K.S.A. 60-206, and amendments thereto, regarding the computation of time shall be applicable in determining the effective date of suspension set out in subsection (d).

Sec. 2. K.S.A. 2015 Supp. 8-1020 is hereby amended to read as fol-

laws: 8-1020. (a) Any licensee served with an officer's certification and notice of suspension pursuant to K.S.A. 8-1002, and amendments thereto, may request an administrative hearing. Such request may be made either by:

(1) Mailing a written request which is postmarked 14 days after service of notice; or

(2) transmitting a written request by electronic facsimile which is received by the division within 14 days after service of notice.

(b) If the licensee makes a timely request for an administrative hearing and makes a timely payment of the required hearing fee, any temporary license issued pursuant to K.S.A. 8-1002, and amendments thereto, shall remain in effect until the 30<sup>th</sup> day after the effective date of the decision made by the division.

(c) If the licensee fails to make a timely request for an administrative hearing together with the required hearing fee, the licensee's driving privileges shall be suspended or suspended and then restricted in accordance with the notice of suspension served pursuant to K.S.A. 8-1002, and amendments thereto.

(d) (1) Upon receipt of a timely request for a hearing together with the required hearing fee, the division shall forthwith set the matter for hearing before a representative of the director and provide notice of the extension of temporary driving privileges. The hearing shall be held by telephone conference call unless the hearing request includes a request that the hearing be held in person before a representative of the director. The officer's certification and notice of suspension shall inform the licensee of the availability of a hearing before a representative of the director. Except for a hearing conducted by telephone conference call, the hearing shall be conducted in the county where the arrest occurred or a county adjacent thereto.

(2) The division shall charge a fee of \$50 for a hearing, to be paid within the time period for making a timely request for a hearing, whether held by telephone or in person, to be applied by the division for administrative costs to conduct the hearing. The division shall remit all hearing 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. The hearing fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such hearing. 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.

(e) Except as provided in subsection (f), prehearing discovery shall be limited to the following documents, which shall be provided to the licensee or the licensee's attorney no later than seven days prior to the date of hearing:

- (1) The officer's certification and notice of suspension;
- (2) in the case of a breath or blood test failure, copies of documents indicating the result of any evidentiary breath or blood test administered at the request of a law enforcement officer;
- (3) in the case of a breath test failure, a copy of the affidavit showing certification of the officer and the instrument; and

- (4) in the case of a breath test failure, a copy of the Kansas department of health and environment testing protocol checklist.

(f) At or prior to the time the notice of hearing is sent, the division shall issue an order allowing the licensee or the licensee's attorney to review any *law enforcement report* and video or audio tape record made of the events upon which the administrative action is based. Such review shall take place at a reasonable time designated by the law enforcement agency and shall be made at the location where the *law enforcement report* or video or audio tape is kept. The licensee may obtain a copy of any such *law enforcement report* or video or audio tape upon request and upon payment of a reasonable fee to the law enforcement agency, not to exceed \$25 per tape or \$.25 per page of the *law enforcement report*.

(g) Witnesses at the hearing shall be limited to the licensee, to any law enforcement officer who signed the certification form and to one other witness who was present at the time of the issuance of the certification and called by the licensee. The presence of the certifying officer or officers shall not be required, unless requested by the licensee at the time of making the request for the hearing. The examination of a law enforcement officer shall be restricted to the factual circumstances relied upon in the officer's certification.

(h) (1) If the officer certifies that the person refused the test, the scope of the hearing shall be limited to whether:

(A) A law enforcement officer had reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system or was under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system;

(B) the person was in custody or arrested or was involved in a vehicle accident or collision resulting in property damage, personal injury or death;

(C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; and

(D) the person refused to submit to and complete a test as requested by a law enforcement officer.

(2) If the officer certifies that the person failed a breath test, the scope of the hearing shall be limited to whether:

(A) A law enforcement officer had reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system or was under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system;

(B) the person was in custody or arrested or was involved in a vehicle accident or collision resulting in property damage, personal injury or death;

(C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto;

(D) the testing equipment used was certified by the Kansas department of health and environment;

(E) the person who operated the testing equipment was certified by the Kansas department of health and environment;

(F) the testing procedures used substantially complied with the procedures set out by the Kansas department of health and environment;

(G) the test result determined that the person had an alcohol concentration of .08 or greater in such person's breath; and

(H) the person was operating or attempting to operate a vehicle.

(3) If the officer certifies that the person failed a blood test, the scope of the hearing shall be limited to whether:

(A) A law enforcement officer had reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system or was under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system;

(B) the person was in custody or arrested or was involved in a vehicle accident or collision resulting in property damage, personal injury or death;

(C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto;

(D) the testing equipment used was reliable;

(E) the person who operated the testing equipment was qualified;

(F) the testing procedures used were reliable;

(G) the test result determined that the person had an alcohol concentration of .08 or greater in such person's blood; and

(H) the person was operating or attempting to operate a vehicle.

(i) At a hearing pursuant to this section, or upon court review of an order entered at such a hearing, an affidavit of the custodian of records at the Kansas department of health and environment stating that the breath testing device was certified and the operator of such device was

certified on the date of the test shall be admissible into evidence in the same manner and with the same force and effect as if the certifying officer or employee of the Kansas department of health and environment had testified in person. A certified operator of a breath testing device shall be competent to testify regarding the proper procedures to be used in conducting the test.

(j) At a hearing pursuant to this section, or upon court review of an order entered at such a hearing, in which the report of blood test results have been prepared by the Kansas bureau of investigation or other forensic laboratory of a state or local law enforcement agency are to be introduced as evidence, the report, or a copy of the report, of the findings of the forensic examiner shall be admissible into evidence in the same manner and with the same force and effect as if the forensic examiner who performed such examination, analysis, comparison or identification and prepared the report thereon had testified in person.

(k) At the hearing, the licensee has the burden of proof by a preponderance of the evidence to show that the facts set out in the officer's certification are false or insufficient and that the order suspending or suspending and restricting the licensee's driving privileges should be dismissed.

(l) Evidence at the hearing shall be limited to the following:

- (1) The documents set out in subsection (e);
- (2) the testimony of the licensee;
- (3) the testimony of any certifying officer;
- (4) the testimony of any witness present at the time of the issuance of the certification and called by the licensee;
- (5) any affidavits submitted from other witnesses;
- (6) any documents submitted by the licensee to show the existence of a medical condition, as described in K.S.A. 8-1001, and amendments thereto; and
- (7) any video or audio tape record of the events upon which the administrative action is based.

(m) After the hearing, the representative of the director shall enter an order affirming the order of suspension or suspension and restriction of driving privileges or for good cause appearing therefor, dismiss the administrative action. If the representative of the director enters an order affirming the order of suspension or suspension and restriction of driving privileges, the suspension or suspension and restriction shall begin on the 30<sup>th</sup> day after the effective date of the order of suspension or suspension and restriction. If the person whose privileges are suspended is a non-resident licensee, the license of the person shall be forwarded to the appropriate licensing authority in the person's state of residence if the result at the hearing is adverse to such person or if no timely request for a hearing is received.

(n) The representative of the director may issue an order at the close



of the hearing or may take the matter under advisement and issue a hearing order at a later date. If the order is made at the close of the hearing, the licensee or the licensee's attorney shall be served with a copy of the order by the representative of the director. If the matter is taken under advisement or if the hearing was by telephone conference call, the licensee and any attorney who appeared at the administrative hearing upon behalf of the licensee each shall be served with a copy of the hearing order by mail. Any law enforcement officer who appeared at the hearing also may be mailed a copy of the hearing order. The effective date of the hearing order shall be the date upon which the hearing order is served, whether served in person or by mail.

(o) The licensee may file a petition for review of the hearing order pursuant to K.S.A. 8-259, and amendments thereto. Upon filing a petition for review, the licensee shall serve the secretary of revenue with a copy of the petition and summons. Upon receipt of a copy of the petition for review by the secretary, the temporary license issued pursuant to subsection (b) shall be extended until the decision on the petition for review is final.

(p) Such review shall be in accordance with this section and the Kansas judicial review act. To the extent that this section and any other provision of law conflicts, this section shall prevail. The petition for review shall be filed within 14 days after the effective date of the order. Venue of the action for review is the county where the person was arrested or the accident occurred, or, if the hearing was not conducted by telephone conference call, the county where the administrative proceeding was held. The action for review shall be by trial de novo to the court and the evidentiary restrictions of subsection (l) shall not apply to the trial de novo. The court shall take testimony, examine the facts of the case and determine whether the petitioner is entitled to driving privileges or whether the petitioner's driving privileges are subject to suspension or suspension and restriction under the provisions of this act. *Notwithstanding K.S.A. 77-617, and amendments thereto, the court: (1) May also consider and determine any constitutional issue, including, but not limited to, the lawfulness of the law enforcement encounter, even if such issue was not raised before the agency; and (2) shall also consider and determine any constitutional issue, including, but not limited to, the lawfulness of the law enforcement encounter, if such issue is raised by the petitioner in the petition for review, even if such issue was not raised before the agency.* If the court finds that the grounds for action by the agency have been met, the court shall affirm ~~the agency action.~~

(q) Upon review, the licensee shall have the burden to show that the decision of the agency should be set aside.

(r) Notwithstanding the requirement to issue a temporary license in K.S.A. 8-1002, and amendments thereto, and the requirements to extend the temporary license in this section, any such temporary driving privi-

leges are subject to restriction, suspension, revocation or cancellation as provided in K.S.A. 8-1014, and amendments thereto, or for other cause.

(s) Upon motion by a party, or on the court's own motion, the court may enter an order restricting the driving privileges allowed by the temporary license provided for in K.S.A. 8-1002, and amendments thereto, and in this section. The temporary license also shall be subject to restriction, suspension, revocation or cancellation, as set out in K.S.A. 8-1014, and amendments thereto, or for other cause.

(t) The facts found by the hearing officer or by the district court upon a petition for review shall be independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect the suspension or suspension and restriction to be imposed under this section.

(u) All notices affirming or canceling a suspension under this section, all notices of a hearing held under this section and all issuances of temporary driving privileges pursuant to this section shall be sent by first-class mail and a United States post office certificate of mailing shall be obtained therefor. All notices so mailed shall be deemed received three days after mailing, except that this provision shall not apply to any licensee where such application would result in a manifest injustice.

(v) The provisions of K.S.A. 60-206, and amendments thereto, regarding the computation of time shall be applicable in determining the time for requesting an administrative hearing as set out in subsection (a) and to the time for filing a petition for review pursuant to subsection (o) and K.S.A. 8-259, and amendments thereto.

Sec. 3. K.S.A. 2015 Supp. 8-1002 and 8-1020 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 9, 2016.

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## CHAPTER 70

House Substitute for SENATE BILL No. 227\*

AN ACT concerning economic development of environmentally contaminated property; relating to liability for cleanup costs; enacting the contaminated property redevelopment act.

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

Section 1. The intent of this act is to provide a mechanism to allow real property with environmental contamination to be purchased without the purchaser becoming liable for cleanup costs. This act establishes the

contaminated property redevelopment fund to help municipalities redevelop contaminated and potentially contaminated properties. This act shall be known and may be cited as the contaminated property redevelopment act.

Sec. 2. As used in this act:

(a) “Certificate of environmental liability release” or “CELR” means a certificate issued by the department that releases the purchaser from environmental liability for contamination existing at the time of issuance of the CELR on a property from actions taken by the bureau of environmental remediation under K.S.A. 65-159, 65-161 through 65-171z, 65-3401 et seq., 65-3430 et seq. and 65-3452a et seq., and amendments thereto.

(b) “Department” means the Kansas department of health and environment.

(c) “Owner” means any owner of record of property or authorized representative.

(d) “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, or any agency, instrumentality or political or taxing subdivision thereof; or any interstate body.

(e) “Property” means real property.

(f) “Purchaser” means any person who is acquiring property through purchase, foreclosure or default. For purposes of this act, “purchaser” does not include the federal government or a person who acquires property through gifts, bequests or inheritance.

(g) “Secretary” means the secretary of health and environment.

(h) “Site” means all areas and media to which environmental contamination or pollution has been released, transported or migrated.

Sec. 3. (a) A property shall be eligible for a CELR from the department if the purchaser submits a complete application to the department and the department finds that:

(1) The property is contaminated, not including contamination resulting from radon, lead-based paint or asbestos;

(2) the purchaser is not the party responsible for the contamination;

(3) the property is:

(A) Not currently owned by the purchaser;

(B) currently owned by the purchaser and was acquired through seizure, condemnation, foreclosure or default; or

(C) currently owned by the purchaser and the purchaser is the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof; or any county, township, city, school district or other political or taxing subdi-

vision of the state, or any agency, authority, institution or other instrumentality thereof;

(4) if the purchaser is a current owner, the purchaser could not have reasonably foreseen the threat of contamination and failed to take reasonable steps to prevent the contamination;

(5) there is no direct or indirect familial relationship or any contractual, corporate or financial relationship between the purchaser and the owner or the party responsible for the contamination, other than that by which such purchaser's interest in the property was conveyed or financed; and

(6) the property is not ineligible for a CELR pursuant to the provisions of section 4, and amendments thereto, and the purchaser has met the conditions required by section 4, and amendments thereto.

(b) It shall be the sole responsibility of the purchaser to provide the needed documentation to the department for the department to make an eligibility determination. These documents shall include:

(1) Phase I or Phase II environmental reports that are completed within industry standards;

(2) environmental assessment reports that are completed within industry standards; or

(3) other reports that will expedite the department's determination requested by the department.

(c) In making eligibility determinations, the department shall have authority to consider such additional factors as deemed relevant by the department, including the current and potential future use of the property.

(d) The department shall make a determination of eligibility or non-eligibility within 15 business days of receiving the application and all required information.

(e) Only property acquired after July 1, 2016, shall be eligible for a CELR.

Sec. 4. (a) In addition to the findings required for a determination of eligibility by the department pursuant to section 3, and amendments thereto, the department shall only grant a CELR upon the following conditions:

(1) The department determines that the purchaser has not caused or exacerbated and will not exacerbate the contamination on the property;

(2) the purchaser agrees to disclose the CELR to subsequent purchasers until the property can be used for unrestricted use;

(3) the purchaser agrees to reasonable access for future environmental investigation and remediation by the department or other party performing investigation and remediation under the oversight of the department; and

(4) the purchaser agrees to provide the department notification within 30 days of any transfer or sale of property that is subject to a CELR.

(b) Property shall not be eligible for a CELR if:

(1) The contamination on the property is subject to regulation under the nuclear energy development and radiation control act, K.S.A. 48-1601 et seq., and amendments thereto;

(2) the property is the source of the contamination and it is eligible for cleanup under the Kansas storage tank act, K.S.A. 65-34,100 et seq., or the Kansas drycleaner environmental response act, K.S.A. 65-34,141 et seq., and amendments thereto, unless the site has been enrolled into the appropriate cleanup program under such acts as applicable;

(3) the property is the source of the contamination and it is listed or proposed for listing on the national priorities list of superfund sites established under the comprehensive environmental response, compensation and liability act (CERCLA) (42 U.S.C.A. § 9601 et seq.);

(4) the purchaser has entered into or is the subject of one or more contracts, agreements or orders with the intended purpose of performing investigation or remediation of contamination at the property; or

(5) the purchaser has provided indemnification or release of environmental liability to any other party regarding contamination at the property.

(c) A CELR does not relieve the holder of requirements or duties of an applicable environmental use control agreement or risk management plan.

Sec. 5. The purchaser shall submit payment to the department of a fee with the CELR application. The fee for the CELR shall be determined by the department by rules and regulations, but shall not exceed \$2,000 and shall be based on the size and complexity of the site and property as determined by the department. If a CELR is not issued by the department, a refund shall be issued to the purchaser less the amount expended by the department to review and process the application.

Sec. 6. (a) A person may submit a request to the department for approval to modify a CELR. The department shall approve or deny the request within 30 business days after the department's receipt of the request. If the department denies the request, justification shall be provided with a written explanation of the denial. A denial by the department may include as a justification for denial that the person has not provided the necessary documentation to justify the modification as determined by the department.

(b) A CELR is not transferable.

(c) The department shall not acquire any liability by virtue of this act.

Sec. 7. (a) If the department determines that fraudulent information was provided by the purchaser to the department for the purpose of obtaining a CELR, the secretary may take such actions as necessary to

protect human health or the environment and may take actions including, but not limited to:

(1) Issuing an order directing the purchaser to take any emergency action necessary to protect human health and the environment;

(2) issuing an order revoking the CELR;

(3) issuing an order that will require the purchaser to implement a cleanup of the site to a standard that will allow for unrestricted use; or

(4) assessing an administrative penalty of up to \$500 per day starting from the date of the application to the date the department determined false information was provided by the purchaser.

(b) Failure by a CELR recipient to grant reasonable access as required by this act or failure to otherwise comply with this act shall result in revocation of the CELR by the department.

(c) If an owner who has received a CELR exacerbates the contamination or interferes with a department-approved remedy on the property, the department shall revoke the CELR.

(d) If an owner who has received a CELR acquires liability for the contamination through contract, law or other mechanism, the CELR shall be null and void.

Sec. 8. (a) There is established in the state treasury the contaminated property redevelopment fund, which shall be administered by the secretary. Moneys collected by the secretary from the following sources shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto, and deposited in the state treasury to the credit of the fund:

(1) Fees for CELR applications;

(2) the federal brownfields program;

(3) gifts, grants, reimbursements or appropriations from any source intended to be used for purposes of the fund;

(4) interest attributable to the investment of moneys in the fund;

(5) penalties collected pursuant to this act; and

(6) repayment of any brownfields loan, including interest and fees.

(b) Expenditures from the contaminated property 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 or the secretary's designee for the following purposes:

(1) Review and approval of CELR applications;

(2) oversight and modifications of completed CELRs;

(3) development, operation and maintenance of the CELR tracking system;

(4) loans to municipalities for assessment and cleanup actions at brownfields redevelopment projects;

(5) grants to municipalities for assessment and cleanup actions at brownfields redevelopment projects; and

(6) administration and enforcement of the provisions of this act.

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

(1) The average daily balance of moneys in the contaminated property redevelopment fund for the preceding month; and

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

Sec. 9. The secretary may adopt rules and regulations necessary to implement the provisions of this act.

Sec. 10. Any person adversely affected by any order or decision of the secretary under this act may, within 15 days of service of the order or decision, request a hearing in writing. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 9, 2016.

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## CHAPTER 71

House Substitute for SENATE BILL No. 337

AN ACT concerning water; relating to the water appropriation act; annual water use report; relating to the division of water resources; chief engineer; amending K.S.A. 2015 Supp. 74-506d, 75-2935 and 82a-732 and repealing the existing sections.

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

New Section 1. To further implement the provisions of the groundwater management district act, if the secretary of agriculture or the chief engineer of the division of water resources of the Kansas department of agriculture propose rules and regulations that may change an adopted local groundwater management program or impact water use in a groundwater management district, the secretary or chief engineer shall notify the groundwater management district board of directors of such requested management program change or proposed rules and regulations and provide a copy of such requested management program change or proposed rules and regulations to the board. Upon such notice, the board of directors shall prepare a response of intended board actions. The board of directors shall follow the provisions of K.S.A. 82a-1029, and amendments thereto, for revising active groundwater management programs.

New Sec. 2. (a) The division of water resources of the Kansas department of agriculture shall post all complete applications and all orders issued by the division pursuant to K.S.A. 82a-706b, 82a-708a and 82a-708b, and amendments thereto, on its official website.

(b) The division, in conjunction with the groundwater management district within which such water right is situated, shall notify all water right owners with a point of diversion within half a mile, or further if deemed necessary by a rule and regulation of the chief engineer, of a water right pending request or application pursuant to K.S.A. 82a-706b, 82a-708a and 82a-708b, and amendments thereto, except for change applications requesting a point of diversion move 300 feet or less from the currently authorized location.

Sec. 3. K.S.A. 2015 Supp. 74-506d is hereby amended to read as follows: 74-506d. The secretary of agriculture is hereby authorized to employ a chief engineer of the division of water resources and such expert assistants, clerical and other help as may be necessary to properly carry out the provisions of this act, and to fix their compensation, ~~all of whom~~. *The chief engineer shall be under the classified service of the Kansas civil service act, but any vacant position of such expert assistants, clerical and other help necessary to carry out the provisions of this act may be converted by the secretary of agriculture to an unclassified position.*

Sec. 4. K.S.A. 2015 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 transportation, 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) 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;

(bb) positions at state institutions of higher education that have been converted to unclassified positions pursuant to K.S.A. 2015 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. 2015 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. 5. K.S.A. 2015 Supp. 82a-732 is hereby amended to read as follows: 82a-732. (a) The owner of a water right or permit to appropriate water for beneficial use, except for domestic use, shall file *or cause to be filed* an annual water use report *for the previous calendar year* on a form prescribed by the chief engineer of the division of water resources of the Kansas department of agriculture on or before March 1 following the end of the previous calendar year. The report shall completely and accurately set forth such water use information as requested by the chief engineer.

(b) ~~Any person failing~~ *owner of a water right or permit to appropriate water for beneficial use, except for domestic use, who fails to timely file* a water use report or other documents required under the provisions of subsection (a) shall be subject to a civil penalty in an amount not to exceed ~~\$250~~ *\$1,000 per water right. In addition to assessing a civil penalty as provided in this section, in the event the owner of a water right or permit to appropriate water for beneficial use fails to file or cause to be filed an annual water use report by June 1 of the calendar year in which it is due, the chief engineer may issue an order indefinitely suspending all water use under such water right or permit to appropriate water for beneficial use until such time as the annual water use report has been submitted or the chief engineer has determined that water use has been otherwise sufficiently documented with the division.* The chief engineer upon a finding that the owner of a water right or permit to appropriate water for beneficial use has failed to file *or cause to be filed* such a report may impose a civil penalty ~~as provided in this section,~~ *suspend the water right indefinitely, or require use of telemetry for the purpose of documentation.*

(c) Any person filing a document knowing it to contain any false information as to a material matter shall be guilty of a class C misdemeanor.

(d) All fines collected by the chief engineer pursuant to this ~~subsection~~ *section* shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

(e) *This section shall be part of and supplemental to the water appropriation act, K.S.A. 82a-701 et seq., and amendments thereto.*

Sec. 6. K.S.A. 2015 Supp. 74-506d, 75-2935 and 82a-732 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 72

## HOUSE BILL No. 2446

AN ACT concerning insurance; relating to motor vehicle liability insurance; increasing minimum policy limit for property damage; payment of certain insurance proceeds; cities and counties; amending K.S.A. 40-3107, 40-3901, 40-3902, 40-3903, 40-3904, 40-3905 and 40-3907 and repealing the existing sections.

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

Section 1. On January 1, 2017, K.S.A. 40-3107 is hereby amended to read as follows: 40-3107. Every policy of motor vehicle liability insurance issued *or renewed on or after January 1, 2017*, by an insurer to an owner residing in this state shall:

(a) Designate by explicit description or by appropriate reference of all vehicles with respect to which coverage is to be granted;

(b) insure the person named and any other person, as insured, using any such vehicle with the expressed or implied consent of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of any such vehicle within the United States of America or the Dominion of Canada, subject to the limits stated in such policy;

(c) state the name and address of the named insured, the coverage afforded by the policy, the premium charged and the policy period;

(d) contain an agreement or be endorsed that insurance is provided in accordance with the coverage required by this act;

(e) contain stated limits of liability, exclusive of interest and costs, with respect to each vehicle for which coverage is granted, not less than \$25,000 because of bodily injury to, or death of, one person in any one accident and, subject to the limit for one person, to a limit of not less than \$50,000 because of bodily injury to, or death of, two or more persons in any one accident, and to a limit of not less than ~~\$10,000~~-\$25,000 because of harm to or destruction of property of others in any one accident;

(f) include personal injury protection benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a motor vehicle, not exceeding the limits prescribed for each of such benefits, for loss sustained by any such person as a result of injury. The owner of a motorcycle, as defined by K.S.A. 8-1438, and amendments thereto or motor-driven cycle, defined by K.S.A. 8-1439, and amendments thereto, who is the named insured, shall have the right to reject in writing insurance coverage including such benefits for injury to a person which occurs while the named insured is operating or is a passenger on such motorcycle or motor-driven cycle; and unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy when the named insured has re-

jected the coverage in connection with a policy previously issued by the same insurer. The fact that the insured has rejected such coverage shall not cause such motorcycle or motor-driven cycle to be an uninsured motor vehicle;

(g) notwithstanding any omitted or inconsistent language, any contract of insurance which an insurer represents as or which purports to be a motor vehicle liability insurance policy meeting the requirements of this act shall be construed to obligate the insurer to meet all the mandatory requirements and obligations of this act;

(h) notwithstanding any other provision contained in this section, any insurer may exclude coverage required by subsections (a), (b), (c) and (d) of this section while any insured vehicles are:

(1) Rented to others or used to carry persons for a charge, however, such exclusion shall not apply to the use of a private passenger car on a share the expense basis; *or*

(2) being repaired, serviced or used by any person employed or engaged in any way in the automobile business. This does not apply to the named insured, spouse or relative residents; or the agents, employers, employees or partners of the named insured, spouse or resident relative; and

(i) in addition to the provisions of subsection (h) and notwithstanding any other provision contained in subsections (a), (b), (c) and (d) of this section, any insurer may exclude coverage:

(1) For any damages for which the United States government might be liable for the insured's use of the vehicle;

(2) for any damages to property owned by, rented to, or in charge of or transported by an insured, however, this exclusion shall not apply to coverage for a rented residence or rented private garage;

(3) for any obligation of an insured, or the insured's insurer under any type of workers' compensation or disability or similar law;

(4) for liability assumed by an insured under any contract or agreement;

(5) if two or more vehicle liability policies apply to the same accident, the total limits of liability under all such policies shall not exceed that of the policy with the highest limit of liability;

(6) for any damages arising from an intentional act;

(7) for any damages to any person who would be covered for such damages under a nuclear energy liability policy;

(8) for any obligation of the insured to indemnify another for damages resulting from bodily injury to the insured's employee by accident arising out of and in the course of such employee's employment;

(9) for bodily injury to any fellow employee of the insured arising out of and in the course of such employee's employment;

(10) for bodily injury or property damage resulting from the handling of property;

(A) Before it is moved from the place where it is accepted by the insured for movement into or onto the covered auto; or

(B) after it is moved from the covered auto to the place where it is finally delivered by the insured;

(11) for bodily injury or property damage resulting from the movement of property by a mechanical device, other than a hand truck, not attached to the covered auto; and

(12) for bodily injury or property damage caused by the dumping, discharge or escape of irritants, pollutants or contaminants; however, this exclusion does not apply if the discharge is sudden and accidental.

*(j) Commencing with the 2026 legislative interim period, and at least every 10 years thereafter, subject to authorization by the legislative coordinating council, a legislative interim study committee shall study the issue of whether the minimum limits of liability in subsection (e) should be adjusted.*

Sec. 2. K.S.A. 40-3901 is hereby amended to read as follows: 40-3901.

(a) The governing body of any city is hereby authorized to establish, by ordinance, a procedure for the payment of not to exceed 15% of the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, ~~caused by or arising out of any fire, explosion or windstorm.~~ The ordinance shall apply only to a covered claim payment which is in excess of 75% of the face value of the policy covering a building or other insured structure.

(b) The insurer first shall pay all amounts due the holder of a first real estate mortgage against the building or other structure pursuant to the terms of the policy and endorsements thereto and then shall withhold from the covered claim payment a sum not to exceed the amount authorized pursuant to subsection (a) and shall pay such moneys to the city to deposit into an interest-bearing account, unless the city has issued a certificate pursuant to K.S.A. 40-3906, and amendments thereto.

(c) The city shall release the insured's proceeds and any interest which has accrued on such proceeds received under subsection (b) within ~~30~~ 45 days after receipt of such moneys, unless the city has instituted legal proceedings under the provisions of K.S.A. 12-1752, and amendments thereto. If the city has proceeded under the provisions of K.S.A. 12-1752, and amendments thereto, all moneys in excess of that necessary to comply with the provisions of K.S.A. 12-1750 et seq., and amendments thereto, for the removal of the building or structure, less salvage value, shall be paid to the insured.

Sec. 3. K.S.A. 40-3902 is hereby amended to read as follows: 40-3902. The governing body of any city is hereby authorized to create, by ordinance, a lien in favor of any such city in the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, ~~caused by or arising out of any fire, explosion~~

~~or windstorms.~~ The lien arises upon any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

Sec. 4. K.S.A. 40-3903 is hereby amended to read as follows: 40-3903.

(a) The governing body of any county is hereby authorized to establish, by resolution, a procedure for the payment of not to exceed 15% of the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, ~~caused by or arising out of any fire, explosion or windstorm.~~ The resolution shall not apply to cities which have adopted an ordinance under the provisions of K.S.A. 40-3901, and amendments thereto. The resolution shall apply only to a covered claim payment which is in excess of 75% of the face value of the policy covering a building or other insured structure.

(b) The insurer first shall pay all amounts due the holder of a first real estate mortgage against the building or other structure pursuant to the terms of the policy and endorsements thereto and then shall withhold from the covered claim payment of the sum not to exceed the amount authorized pursuant to subsection (a) and shall pay such moneys to the county to deposit into an interest-bearing account, unless the city has issued a certificate pursuant to K.S.A. 40-3906, and amendments thereto.

(c) The county shall release the insured's proceeds and any interest which has accrued on such proceeds received under subsection (b) within ~~30~~ 45 days after receipt of such moneys, unless the county has instituted legal proceedings, using the procedure under K.S.A. 12-1752, and amendments thereto, insofar as the same can be made applicable. If the county has instituted legal proceedings, all moneys in excess of that necessary for the removal of the building or structure, less salvage value, shall be paid to the insured.

Sec. 5. K.S.A. 40-3904 is hereby amended to read as follows: 40-3904. The governing body of any county is hereby authorized to create, by resolution, a lien in favor of any such county in the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, ~~caused by or arising out of any fire, explosion or windstorms.~~ The lien arises upon any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of the county which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. This resolution shall not apply to cities which have adopted an ordinance under the provisions of K.S.A. 40-3902, and amendments thereto.



Sec. 6. K.S.A. 40-3905 is hereby amended to read as follows: 40-3905. Every city or county which adopts an ordinance or resolution under the provisions of K.S.A. 40-3901 through 40-3904, and amendments thereto, shall notify the commissioner of insurance. At least once each quarter of each calendar year, the commissioner shall prepare and distribute a list of all cities and counties adopting an ordinance or resolution under the provisions of this act during the preceding quarter to all insurance companies which issue policies insuring buildings and other structures against loss by fire, explosion or windstorms. Insurance companies shall have 60 days after the commissioner notifies them of the adoption of such ordinance or resolution to establish procedures within such cities or counties to carry out the provisions of this act.

Sec. 7. K.S.A. 40-3907 is hereby amended to read as follows: 40-3907. This act shall apply to ~~fire or explosion~~ *all covered* claims arising ~~on from~~ *damage to* all buildings or structures.

Sec. 8. K.S.A. 40-3901, 40-3902, 40-3903, 40-3904, 40-3905 and 40-3907 are hereby repealed.

Sec. 9. On January 1, 2017, K.S.A. 40-3107 is hereby repealed.

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

Approved May 10, 2016.

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## CHAPTER 73

### HOUSE BILL No. 2522

AN ACT concerning the division of vehicles; relating to drivers' licenses and identification cards, renewal, facial imaging; requirements; restricted motorized bicycle driver's licenses, application fees; examinations, three-wheeled motorcycles; amending K.S.A. 2015 Supp. 8-235, 8-240, 8-243 and 8-1324 and repealing the existing sections.

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

Section 1. K.S.A. 2015 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.

(3) *On and after January 1, 2017, an applicant for a class M license who passes a driving examination administered by the division on a three-wheeled motorcycle which is not an autocycle shall have a restriction placed on such applicant's license limiting the applicant to the operation of a registered three-wheeled motorcycle. An applicant for a class M license who passes a driving examination administered by the division on a two-wheeled motorcycle may operate any registered two-wheeled or three-wheeled motorcycle.*

(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 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 ef-

forts 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~~: (1) *Digital color image or photograph*; or (2) *a laser engraved 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. *The captured facial image shall be displayed on the front of the applicant's driver's license.*

(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.

(j) *For purposes of this subsection, the division may rely on the division's most recent, existing color digital image and signature image of the applicant for the class C or M driver's license if the division has the information on file. The determination on whether an electronic online renewal application or equivalent of a driver's license is permitted shall be made by the director of vehicles or the director's designee. The division shall not renew a driver's license through an electronic online or equivalent process if the license has been previously renewed through an electronic online application in the immediately preceding driver's license period. No renewal under this subsection shall be granted to any person who is: (1) Younger than 30 days from turning 21 years of age; (2) 65 years of age or older; (3) a registered offender pursuant to K.S.A. 22-4901 et seq., and amendments thereto; or (4) has a temporary driver's license issued pursuant to K.S.A. 8-240(b)(3), and amendments thereto, provided the license is not otherwise withdrawn. The secretary of revenue may adopt and administer rules and regulations to implement a program to permit an electronic online renewal of a driver's license.*

Sec. 2. K.S.A. 2015 Supp. 8-243 is hereby amended to read as follows: 8-243. (a) Upon payment of the required fee, the division shall issue to every applicant qualifying under the provisions of this act the driver's license as applied for by the applicant. Such license shall bear the class or classes of motor vehicles which the licensee is entitled to drive, a distinguishing number assigned to the licensee, the full legal name, date of birth, gender, address of principal residence and a brief description of

the licensee, *either: (1) A ~~colored~~ digital color image or photograph; or (2) a laser engraved photograph* of the licensee, a facsimile of the signature of the licensee and the statement provided for in subsection (b). No driver's license shall be valid until it has been signed by the licensee. All drivers' licenses issued to persons under the age of 21 years shall be readily distinguishable from licenses issued to persons age 21 years or older. In addition, all drivers' licenses issued to persons under the age of 18 years shall also be readily distinguishable from licenses issued to persons age 18 years or older. The secretary of revenue shall implement a vertical format to make drivers' licenses issued to persons under the age of 21 more readily distinguishable. Except as otherwise provided, no driver's license issued by the division shall be valid until *either: (1) A ~~colored~~ digital color image or photograph; or (2) a laser engraved photograph* of such licensee has been taken and verified before being placed on the driver's license. The secretary of revenue shall prescribe a fee of not more than \$8 and upon the payment of such fee, the division shall cause *either: (1) A ~~colored~~ digital color image or photograph; or (2) a laser engraved photograph* of such applicant to be placed on the driver's license. Upon payment of such fee prescribed by the secretary of revenue, plus payment of the fee required by K.S.A. 8-246, and amendments thereto, for issuance of a new license, the division shall issue to such licensee a new license containing *either: (1) A ~~colored~~ digital color image or photograph; or (2) a laser engraved photograph* of such licensee. A driver's license which does not contain the principal address as required may be issued to persons who are program participants pursuant to K.S.A. 2015 Supp. 75-455, and amendments thereto, upon payment of the fee required by K.S.A. 8-246, and amendments thereto. All Kansas drivers' licenses and identification cards shall have physical security features designed to prevent tampering, counterfeiting or duplication of the document for fraudulent purposes. The secretary of revenue shall incorporate common machine-readable technology into all Kansas drivers' licenses and identification cards.

(b) All Kansas drivers' licenses issued to any person 16 years of age or older shall contain a form which provides a statement for making a gift of all or any part of the body of the licensee in accordance with the revised uniform anatomical gift act, K.S.A. 2015 Supp. 65-3220 through 65-3244, and amendments thereto, except as otherwise provided by this subsection. The statement to be effective shall be signed by the licensee in the presence of two witnesses who shall sign the statement in the presence of the donor. The gift becomes effective upon the death of the donor. Delivery of the license during the donor's lifetime is not necessary to make a valid gift. Any valid gift statement executed prior to July 1, 1994, shall remain effective until invalidated. The word "Donor" shall be placed on the front of a licensee's driver's license, indicating that the statement

for making an anatomical gift under this subsection has been executed by such licensee.

(c) Any person who is deaf or hard of hearing may request that the division issue to such person a driver's license which is readily distinguishable from drivers' licenses issued to other drivers and upon such request the division shall issue such license. Drivers' licenses issued to persons who are deaf or hard of hearing and under the age of 21 years shall be readily distinguishable from drivers' licenses issued to persons who are deaf or hard of hearing and 21 years of age or older. Upon satisfaction of subsection (a), the division shall issue a receipt of application permitting the operation of a vehicle consistent with the requested class, if there are no other restrictions or limitations, pending the division's verification of the information and production of a driver's license.

(d) A driver's license issued to a person required to be registered under K.S.A. 22-4901 et seq., and amendments thereto, shall be assigned a distinguishing number by the division which will readily indicate to law enforcement officers that such person is a registered offender. The division shall develop a numbering system to implement the provisions of this subsection.

(e) (1) Any person who is a veteran may request that the division issue to such person a driver's license which shall include the designation "VETERAN" displayed on the front of the driver's license at a location to be determined by the secretary of revenue. In order to receive a license described in this subsection, the veteran must provide proof of the veteran's military service and honorable discharge or general discharge under honorable conditions, including a copy of the veteran's DD214 form or equivalent.

(2) As used in this subsection, "veteran" means a person who:

(A) Has served in: The army, navy, marine corps, air force, coast guard, air or army national guard or any branch of the military reserves of the United States; and

(B) has been separated from the branch of service in which the person was honorably discharged or received a general discharge under honorable conditions.

(3) The director of vehicles may adopt any rules and regulations necessary to carry out the provisions of this subsection.

Sec. 3. K.S.A. 2015 Supp. 8-1324 is hereby amended to read as follows: 8-1324. (a) Any resident who does not hold a current valid Kansas driver's license may make application to the division of vehicles and be issued one identification card.

(b) For the purpose of obtaining an identification card, an applicant shall submit, with the application, proof of age, proof of identity and proof of lawful presence. An applicant shall submit with the application a photo identity document, except that a non-photo identity document is accept-

able 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 account number. The applicant's social security number shall remain confidential and shall not be disclosed, except as provided pursuant to K.S.A. 74-2014, 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 identification card. Before issuing an identification card to a person, the division shall make reasonable efforts to verify with the issuing agency the issuance, validity and completeness of each document required to be presented by the applicant to prove age, identity and lawful presence.

(c) The division shall not issue an identification card to any person who fails to provide proof that the person is lawfully present in the United States. If an applicant provides evidence of lawful presence as set out in ~~subsections (b)(2)(E) through (2)(I) of K.S.A. 8-240(b)(2)(E) through (2)(I), and amendments thereto, or is an alien lawfully admitted for temporary residence under subsection (b)(2)(B) of K.S.A. 8-240(b)(2)(B), and amendments thereto,~~ the division may only issue a temporary identification card to the person under the following conditions: (A) A temporary identification card 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 temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date upon which it expires; (C) no temporary identification card issued pursuant to this subparagraph shall be for a longer period of time than the time period permitted by K.S.A. 8-1325, and amendments thereto; and (D) a temporary identification card issued pursuant to this subparagraph may be renewed, subject at the time of renewal, to the same requirements and conditions set forth in this subsection (c) for the issuance of the original temporary identification card.

(d) The division shall not issue an identification card to any person who holds a current valid Kansas driver's license unless such driver's license has been physically surrendered pursuant to the provisions of ~~subsection (e) of K.S.A. 8-1002(e), and amendments thereto.~~

(e) The division shall refuse to issue an identification card to a person holding a driver's license or identification card issued by another state without confirmation that the person is terminating or has terminated the license or identification card.

(f) The parent or guardian of an applicant under 16 years of age shall sign the application for an identification card submitted by such applicant.

(g) (1) The division shall require payment of a fee of \$14 at the time application for an identification card is made, except that persons who are 65 or more years of age or who are handicapped, as defined in K.S.A.



8-1,124, and amendments thereto, shall be required to pay a fee of only \$10. In addition to the fees prescribed by this subsection, the division shall require payment of the photo fee established pursuant to K.S.A. 8-243, and amendments thereto, for the cost of the photograph to be placed on the identification card.

(2) The division shall not require or accept payment of application or photo fees under this subsection for any person 17 years of age or older for purposes of meeting the voter identification requirements of K.S.A. 25-2908, and amendments thereto. Such person shall:

(A) Swear under oath that such person desires an identification card in order to vote in an election in Kansas and that such person does not possess any of the forms of identification acceptable under K.S.A. 25-2908, and amendments thereto. The affidavit shall specifically list the acceptable forms of identification under K.S.A. 25-2908, and amendments thereto; and

(B) produce evidence that such person is registered to vote in Kansas.

(3) The secretary of revenue shall adopt rules and regulations in order to implement the provisions of paragraph (2).

(h) All Kansas identification cards shall have physical security features designed to prevent tampering, counterfeiting or duplication for fraudulent purposes.

(i) For the purposes of K.S.A. 8-1324 through 8-1328, and amendments thereto, a person shall be deemed to be a resident of the state if:

(1) The person owns, leases or rents a place of domicile in this state;

(2) the person engages in a trade, business or profession in this state;

(3) the person is registered to vote in this state;

(4) the person enrolls the person's child in a school in this state; or

(5) the person registers the person's motor vehicle in this state.

(j) The division shall require that any person applying for an identification card submit to a mandatory facial image capture. *The captured facial image shall be displayed on the front of the applicant's identification card.*

(k) (1) Any person who is a veteran may request that the division issue to such person a nondriver identification card which shall include the designation "VETERAN" displayed on the front of the nondriver identification card at a location to be determined by the secretary of revenue. In order to receive a nondriver identification card described in this subsection, the veteran must provide proof of the veteran's military service and honorable discharge or general discharge under honorable conditions, including a copy of the veteran's DD214 form or equivalent.

(2) As used in this subsection, "veteran" means a person who:

(A) Has served in: The army, navy, marine corps, air force, coast guard, air or army national guard or any branch of the military reserves of the United States; and

(B) has been separated from the branch of service in which the per-

son was honorably discharged or received a general discharge under honorable conditions.

(3) The director of vehicles may adopt any rules and regulations necessary to carry out the provisions of this subsection.

(l) The director of vehicles may issue a temporary identification card to an applicant who cannot provide valid documentary evidence as defined by subsection (c), if the applicant provides compelling evidence proving current lawful presence. Any temporary identification card issued pursuant to this subparagraph shall be valid for one year.

(m) Upon payment of the required fee, the division shall issue to every applicant qualifying under the provisions of this act an identification card. Such identification card shall bear a distinguishing number assigned to the cardholder, the full legal name, date of birth, address of principal residence, a brief description of the cardholder, *either: (1) A ~~colored~~ digital color image or photograph; or (2) a laser engraved* photograph of the cardholder, and a facsimile of the signature of the cardholder. An identification card which does not contain the address of principal residence of the cardholder as required may be issued to persons who are program participants pursuant to K.S.A. 2015 Supp. 75-455, and amendments thereto.

Sec. 4. K.S.A. 2015 Supp. 8-235 is hereby amended to read as follows: 8-235. (a) No person, except those expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid driver's license. No person shall receive a driver's license unless and until such person surrenders or with the approval of the division, lists to the division all valid licenses in such person's possession issued to such person by any other jurisdiction. All surrendered licenses or the information listed on foreign licenses shall be returned by the division to the issuing department, together with information that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid license at any time.

(b) Any person licensed under the motor vehicle drivers' license act may exercise the privilege granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any local authority. Nothing herein shall prevent cities from requiring licenses of persons who drive taxicabs or municipally franchised transit systems for hire upon city streets, to protect the public from drivers whose character or habits make them unfit to transport the public. If a license is denied, the applicant may appeal such decision to the district court of the county in which such city is located by filing within 14 days after such denial, a notice of appeal with the clerk of the district court and by filing a copy of such notice with the city clerk of the involved city. The city clerk shall certify a copy of such decision of the city governing body to the clerk of the district court and the matter shall be docketed

as any other cause and the applicant shall be granted a trial of such person's character and habits. The matter shall be heard by the court de novo in accordance with the code of civil procedure. The cost of such appeal shall be assessed in such manner as the court may direct.

(c) Any person operating in this state a motor vehicle, except a motorcycle, which is registered in this state other than under a temporary ~~thirty-day~~ permit, *pursuant to K.S.A. 8-2409, and amendments thereto*, shall be the holder of a driver's license which is classified for the operation of such motor vehicle, and any person operating in this state a motorcycle which is registered in this state shall be the holder of a class M driver's license, except that any person operating in this state a motorcycle which is registered under a temporary ~~thirty-day~~ permit, *pursuant to K.S.A. 8-2409, and amendments thereto*, shall be the holder of a driver's license for any class of motor vehicles.

(d) No person shall drive any motorized bicycle upon a highway of this state unless such person: (1) Has a valid driver's license which entitles the licensee to drive a motor vehicle in any class or classes; (2) is at least 15 years of age and has passed the written and visual examinations required for obtaining a class C driver's license, in which case the division shall issue to such person a class C license which clearly indicates such license is valid only for the operation of motorized bicycles; (3) has had their driving privileges suspended, for a violation other than a violation of K.S.A. 8-2,144, and amendments thereto, or a second or subsequent violation of K.S.A. 8-1567 or 8-1567a or K.S.A. 2015 Supp. 8-1025, and amendments thereto, and such person: (A) Has completed the mandatory period of suspension as provided in K.S.A. 8-1014, and amendments thereto; and (B) has made application *and submitted a \$40 nonrefundable application fee* to the division for the issuance of a class C license for the operation of motorized bicycles, in accordance with paragraph (2), in which case the division shall issue to such person a class C license which clearly indicates such license is valid only for the operation of motorized bicycles; or (4) has had their driving privileges revoked under K.S.A. 8-286, and amendments thereto, has not had a test refusal or test failure or alcohol or drug-related conviction, as those terms are defined in K.S.A. 8-1013, and amendments thereto, in the last five years, has not been convicted of a violation of ~~subsection (b) of~~ K.S.A. 8-1568(b), and amendments thereto, in the last five years and has made application to the division for issuance of a class C license for the operation of motorized bicycles, in accordance with paragraph (2), in which case the division shall issue such person a class C license which clearly indicates such license is valid only for the operation of motorized bicycles. *As used in this subsection, "motorized bicycle" shall have the meaning ascribed to it in K.S.A. 8-126, and amendments thereto.*

(e) *All moneys received under subsection (d) from the nonrefundable application fee shall be applied by the division of vehicles for the addi-*

*tional 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.*

~~(e)~~(f) Violation of this section shall constitute a class B misdemeanor.

Sec. 5. K.S.A. 2015 Supp. 8-235, 8-240, 8-243 and 8-1324 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 10, 2016.

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## CHAPTER 74

### HOUSE BILL No. 2622

AN ACT concerning the state board of regents; relating to degree program transparency; relating to credit hours; relating to postsecondary career technical education performance-based funding; relating to general educational development credential fees; relating to tuition and fees of private and out-of-state postsecondary institutions; amending K.S.A. 2015 Supp. 72-4530, 74-32,163, 74-32,165 and 74-32,181 and repealing the existing sections; also repealing K.S.A. 2015 Supp. 72-4490, 74-32,166 and 74-32,176.

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

New Section 1. (a) The state board of regents shall publish degree prospectus information for each undergraduate degree program offered by each postsecondary educational institution that summarizes information and statistics on such degree program. Upon request, each postsecondary educational institution shall provide any necessary information to the state board of regents.

(b) The degree prospectus for each degree program shall include the following:

(1) A description of the degree program, provided nothing in the description shall contradict, mitigate or otherwise explain any of the statistical information described in subsections (b)(2) through (b)(8);

(2) the typical number of years recent graduates have taken to obtain the degree from such postsecondary educational institution;

(3) the expected number of credit hours required to obtain the degree from such postsecondary educational institution;

(4) the expected aggregate cost and cost per year incurred by an individual to obtain the degree from such postsecondary educational institution, including tuition, room and board, books and student fees;

(5) the aggregate degree investment incurred by an individual to ob-

tain the degree from such postsecondary educational institution determined by subtracting the typical amount of grants and scholarships awarded for such degree from the aggregate cost;

(6) the median wage information of recent graduates from such degree program as reported by the state department of labor and any other state where data-sharing agreements governing the reporting of such information may be obtained upon entry into the workforce, and median wages after five years;

(7) the percentage of graduates who are employed in this state or any other state where data-sharing agreements governing the publication of such information may be obtained, within one year from entry into the workforce; and

(8) the number of years required to fully recoup the degree investment and typical loan debt incurred by an individual to obtain the degree from such postsecondary educational institution, at an annual interest rate set by the state board of regents which shall be the maximum federally guaranteed student interest rate showing the number of years necessary to fully recoup the degree investment, the monthly payment amount and percentage of earnings required to repay estimated loan commitments which correspond to the following number of years of repayment: 10, 15, 20, 25 and 30 years. The monthly payment amount shall be determined by dividing the median wage upon entry into the workforce by the corresponding number of years of repayment.

(c) The state board of regents shall:

(1) Make degree prospectus information readily available through a link on the state board of regents' official website; and

(2) update each degree prospectus at least once per year.

(d) Each postsecondary educational institution shall:

(1) Make degree prospectus information readily available through a link on such institution's official website homepage and on any web page dedicated to the promotion of a degree program, which shall be titled by the state board of regents and promoted statewide in a uniform manner at the direction of the state board of regents;

(2) promote degree prospectus information to each student who inquires about the degree program; and

(3) promote degree prospectus information whenever a hard copy of any written materials concerning the degree program are provided.

(e) The state board of regents shall adopt rules and regulations necessary to implement the provisions of this section.

(f) As used in this section:

(1) "Postsecondary educational institution" means:

(A) For school year 2016-2017, any state educational institution and any municipal university; and

(B) for school year 2017-2018 and each school year thereafter, any state educational institution, municipal university, community college,

technical college and institute of technology, and includes any entity resulting from the consolidation or affiliation of any two or more of such postsecondary educational institutions.

(2) “State educational institution,” “municipal university,” “community college,” “technical college” and “institute of technology” mean the same as such terms are defined in K.S.A. 74-3201b, and amendments thereto.

New Sec. 2. (a) On or before January 1, 2017, the state board of regents shall adopt a policy requiring state educational institutions to award the appropriate number of credit hours to any student enrolled in such institution who has successfully passed an exam administered through the college level examination program (CLEP) and received a credit-granting recommended score as outlined by the American council on education. Such policy shall include the following:

(1) The number of credit hours to be awarded shall be at least equivalent to the minimum number of credit hours granted for the equivalent course offered by the institution;

(2) an institution shall not limit the number of credit hours that may be awarded to a student beyond the limitations placed on such institution by such institution’s regional accrediting agency;

(3) credit hours awarded for exams in the subject of the student’s major course of study shall apply towards the student’s degree program major course of study, and all other credit hours shall apply towards general degree requirements;

(4) credit hours for exams shall be listed on the student’s transcript as pass/fail;

(5) all exams listed on a student’s transcript shall be included on such transcript if the student transfers to a different postsecondary educational institution, and if the subsequent institution is a state educational institution, then the credit hours for such exams shall be applied in accordance with this section; and

(6) any other provisions related to the awarding of credit hours based on CLEP exam results deemed necessary by the board.

(b) Commencing July 1, 2017, each state educational institution shall award credit hours to enrolled students who have successfully passed a CLEP exam in accordance with the policy adopted by the board pursuant to subsection (a).

(c) As used in this section, the terms “state board of regents” and “state educational institution” shall have the same meaning as those terms are defined in K.S.A. 74-3201b, and amendments thereto.

Sec. 3. K.S.A. 2015 Supp. 72-4490 is hereby amended to read as follows: 72-4490. (a) (1) Any eligible postsecondary educational institution may certify to the board of regents:

(A) The number of individuals who received a general educational

development (GED) credential from such institution while enrolled in an eligible career technical education program;

(B) the number of individuals who received a career technical education credential from such institution; and

(C) the number of individuals who were enrolled in an eligible career technical education program at such institution and who are pursuing a general educational development (GED) credential.

(2) Certifications submitted pursuant to this subsection shall be submitted in such form and manner as prescribed by the board of regents, and shall include such other information as required by the board of regents.

(b) Each fiscal year, upon receipt of a certification submitted under subsection (a), the board of regents shall authorize payment to such eligible postsecondary educational institution from the postsecondary education performance-based incentives fund. The amount of any such payment shall be calculated based on the following:

(1) For each individual who has received a general educational development (GED) credential, \$500;

(2) for each individual who has received a career technical education credential, \$1,000; and

(3) for each individual enrolled in an eligible career technical education program who is pursuing a general educational development (GED) credential, \$170.

(c) That portion of any payment from the postsecondary education performance-based incentives fund that is made based on subsection (b)(2) shall be expended for scholarships for individuals enrolled in an eligible career technical education program and operating costs of eligible career technical education programs. Each eligible postsecondary educational institution shall prepare and submit a report to the board of regents which shall include the number of individuals who received scholarships, the aggregate amount of moneys expended for such scholarships and the number of those individuals who received a scholarship that also received a career technical education credential.

(d) (1) Of that portion of any payment from the postsecondary education performance-based incentives fund that is made based on subsection (b)(3), an amount equal to \$150 for each individual shall be expended by the eligible postsecondary educational institution for the general educational development (GED) test.

(2) If any individual enrolled in an eligible career technical education program for which an eligible postsecondary educational institution has received a payment under this section fails to take the general educational development (GED) test, then such institution shall notify the board of regents in writing that no such test was administered to the individual. For each such notification received, the board of regents shall deduct an

amount equal to \$150 from such institution's subsequent incentive payment.

(e) All payments authorized by the board of regents pursuant to this section shall be subject to the limits of appropriations made for such purposes. If there are insufficient appropriations for the board of regents to authorize payments in accordance with the amounts set forth in subsection (b), the board of regents shall prorate such amounts in accordance with appropriations made therefor.

(f) There is hereby created the postsecondary education performance-based incentives fund. Expenditures from the postsecondary education performance-based incentives fund shall be for the sole purpose of paying payments to eligible postsecondary educational institutions as authorized by the board of regents. All expenditures from the postsecondary education performance-based incentives fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board of regents, or the president's designee.

(g) As used in this section:

(1) "Board of regents" means the state board of regents provided for in the constitution of this state and established by K.S.A. 74-3202a, and amendments thereto.

(2) "Career technical education credential" means any industry-recognized technical certification or credential, other than a general educational development (GED) credential, or any technical certification or credential authorized by a state agency.

(3) "Eligible career technical education program" means a program operated by one or more eligible postsecondary educational institutions that is identified by the board of regents as a program that allows an enrollee to obtain a general educational development (GED) credential while pursuing a career technical education credential.

(4) "Eligible postsecondary educational institution" means any community college, technical college or the institute of technology at Washburn university; ~~except such term shall not include Johnson county community college.~~

(5) "State agency" means any state office, department, board, commission, institution, bureau or any other state authority.

Sec 4. K.S.A. 2015 Supp. 72-4530 is hereby amended to read as follows: 72-4530. (a) The state board of regents may adopt rules and regulations relating to the processing and issuance of general educational development (GED) credentials.

(b) Each application to the state board of regents for issuance or duplication of general educational development credentials or verification of credentials shall be accompanied by a fee which shall be established by the state board of regents and shall be in an amount of not more than



~~§15~~ §25. On or before June 1 of each year, the state board of regents shall determine the amount of revenue which will be required to properly administer the provisions of this section during the next ensuing fiscal year, and shall establish the GED credentials processing fee for such year in the amount deemed necessary for such purposes. Such fee shall become effective on the succeeding July 1 of each year. The state board of regents shall remit all moneys received by or for it from GED credentials processing 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 GED credentials processing fees fund, which fund is hereby established in the state treasury, and shall be used only for the payment of expenses connected with the processing, issuance or duplication of GED credentials, and for the keeping of records by the state board of regents. All expenditures from the GED credentials processing fees 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 regents or by a person or persons designated by the state board.

Sec. 5. K.S.A. 2015 Supp. 74-32,163 is hereby amended to read as follows: 74-32,163. As used in the Kansas private and out-of-state postsecondary educational institution act:

(a) “Academic degree” means any associate, bachelor’s, professional, master’s, specialist or doctoral degree.

(b) “Accreditation” means an accreditation by an agency recognized by the United States department of education.

(c) “Branch campus” means any subsidiary place of business maintained within the state of Kansas by an institution at a site which is separate from the site of the institution’s principal place of business and at which the institution offers a course or courses of instruction or study identical to the course or courses of instruction or study offered by the institution at its principal place of business.

~~(d) “Commission” means the advisory commission on private and out-of-state postsecondary educational institutions established pursuant to K.S.A. 2015 Supp. 74-32,166, and amendments thereto.~~

~~(e)~~ (e) “Distance education” means any course delivered primarily by use of correspondence study, audio, video or computer technologies.

~~(f)~~(e) “Out-of-state postsecondary educational institution” means a postsecondary educational institution chartered, incorporated or otherwise organized under the laws of any jurisdiction other than the state of Kansas.

~~(g)~~(f) “Institution” means an out-of-state or private postsecondary educational institution.

~~(h)~~(g) “Institution employee” means any person, other than an

owner, who directly or indirectly receives compensation from an institution for services rendered.

~~(i)~~(h) “Owner of an institution” means:

(1) In the case of an institution owned by an individual, that individual;

(2) in the case of an institution owned by a partnership, all full, silent and limited partners;

(3) in the case of an institution owned by a corporation, the corporation, its directors, officers and each shareholder owning shares of issued and outstanding stock aggregating at least 10% of the total of the issued and outstanding shares; and

(4) in the case of an institution owned by a limited liability company, the company, its managers and all its members.

~~(j)~~(i) “Person” means an individual, firm, partnership, association or corporation.

~~(k)~~(j) “Physical presence” means:

(1) The employment in Kansas of a Kansas resident for the purpose of administering, coordinating, teaching, training, tutoring, counseling, advising or any other activity on behalf of the institution; or

(2) The delivery of, or the intent to deliver, instruction in Kansas with the assistance from any entity within the state in delivering the instruction including, but not limited to, a cable television company or a television broadcast station that carries instruction sponsored by the institution.

~~(l)~~(k) “Private postsecondary educational institution” means an entity which:

(1) Is a business enterprise, whether operated on a profit or not-for-profit basis, which has a physical presence within the state of Kansas or which solicits business within the state of Kansas;

(2) offers a course or courses of instruction or study through classroom contact or by distance education, or both, for the purpose of training or preparing persons for a field of endeavor in a business, trade, technical or industrial occupation or which offers a course or courses leading to an academic degree; and

(3) is not specifically exempted by the provisions of this act.

~~(m)~~(l) “Representative” means any person employed by an institution to act as an agent, solicitor or broker to procure students or enrollees for the institution.

~~(n)~~(m) “State board” means the state board of regents or the board’s designee.

~~(o)~~(n) “Support” or “supported” means the primary source and means by which an institution derives revenue to perpetuate operation of the institution.

~~(p)~~(o) “University” means a postsecondary educational institution authorized to offer any degree including a bachelor, graduate or professional degree.

(e)-(p) “State educational institution” means any state educational institution as defined by K.S.A. 76-711, and amendments thereto.

Sec. 6. K.S.A. 2015 Supp. 74-32,165 is hereby amended to read as follows: 74-32,165. (a) The state board may adopt rules and regulations for the administration of this act. ~~Prior to the adoption of any such rules and regulations, the state board shall afford the advisory commission an opportunity to make recommendations thereon.~~

(b) Specific standards shall be set for determining those institutions which qualify for approval to confer or award academic degrees. Such standards shall be consistent with standards applicable to state educational institutions under the control and supervision of the state board.

(c) The state board shall maintain a list of institutions that have been issued a certificate of approval.

(d) Any state agency having information which will enable the state board to exercise its powers and perform its duties in administering the provisions of this act shall furnish such information when requested by the state board.

Sec. 7. K.S.A. 2015 Supp. 74-32,181 is hereby amended to read as follows: 74-32,181.(a) The state board shall fix, charge and collect fees not to exceed the following amounts by adopting rules and regulations for such purposes:

(1) For institutions ~~domiciled or~~ *chartered, incorporated or otherwise organized under the laws of Kansas and* having their principal place of business within the state of Kansas:

Initial application fees:

- Non-degree granting institution ..... \$2,000
- Degree granting institution ..... \$3,000

Initial evaluation fee (in addition to initial application fees):

- Non-degree level ..... \$750
- Associate degree level ..... \$1,000
- Baccalaureate degree level ..... \$2,000
- Master’s degree level ..... \$3,000
- Professional or doctoral degree level ..... \$4,000

Renewal application fees:

- Non-degree granting institution .....2% of gross tuition,  
but not less than ~~\$800~~ \$500, nor more than \$25,000
- Degree granting institution .....2% of gross tuition,  
but not less than ~~\$1,600~~ \$1,000, nor more than \$25,000

New program submission fees, for each new program:

- Non-degree program ..... \$250
- Associate degree program ..... \$500
- Baccalaureate degree program ..... \$750
- Master’s degree program ..... \$1,000
- Professional or doctoral degree program ..... \$2,000

Program modification fee, for each program .....	\$100
Branch campus site fees, for each branch campus site:	
Initial non-degree granting institution .....	\$1,500
Initial degree granting institution .....	\$2,500
Renewal branch campus site fees, for each branch campus site:	
Non-degree granting institution .....	2% of gross tuition, but not less than <del>\$800</del> \$500, nor more than \$25,000
Degree granting institution .....	2% of gross tuition, but not less than <del>\$1,600</del> \$1,000, nor more than \$25,000
On-site branch campus review fee, for each site .....	\$250
Representative fees:	
Initial registration .....	\$200
Renewal of registration .....	\$150
Late submission of renewal of application fee .....	<del>\$125</del> \$500
Student transcript copy fee .....	\$10
Returned check fee .....	\$50
Changes in institution profile fees:	
Change of institution name .....	\$100
Change of institution location .....	\$100
Change of ownership only .....	\$100
(2) For institutions domiciled or having their principal place of business outside the state of Kansas:	
Initial application fees:	
Non-degree granting institution .....	\$4,000
Degree granting institution .....	\$5,500
Initial evaluation fee (in addition to initial application fees):	
Non-degree level .....	\$1,500
Associate degree level .....	\$2,000
Baccalaureate degree level .....	\$3,000
Master's degree level .....	\$4,000
Professional or doctoral degree level .....	\$5,000
Renewal application fees:	
Non-degree granting institution .....	3% of gross tuition, but not less than <del>\$2,400</del> \$1,000, nor more than \$25,000
Degree granting institution .....	3% of gross tuition, but not less than <del>\$3,000</del> \$2,000, nor more than \$25,000
New program submission fees, for each new program:	
Non-degree program .....	\$500
Associate degree program .....	\$750
Baccalaureate degree program .....	\$1,000
Master's degree program .....	\$1,500
Professional or doctoral degree program .....	\$2,500
Program modification fee, for each program .....	\$100
Branch campus site fees, for each branch campus site:	

Initial non-degree granting institution .....	\$4,000
Initial degree granting institution .....	\$5,500
Renewal branch campus site fees, for each branch campus site:	
Non-degree granting institution .....	3% of gross tuition, but not less than <del>\$2,400</del> \$1,000, nor more than \$25,000
Degree granting institution .....	3% of gross tuition, but not less than <del>\$3,000</del> \$2,000, nor more than \$25,000
On site branch campus review fee, for each site .....	\$500
Representative fees:	
Initial registration .....	\$350
Renewal of registration .....	\$250
Late submission of renewal of application fee .....	<del>\$125</del> \$500
Student transcript copy fee .....	\$10
Returned check fee .....	\$50
Changes in institution profile fees:	
Change of institution name .....	\$100
Change of institution location .....	\$100
Change of ownership only .....	\$100

(b) Fees shall not be refundable.

(c) If there is a change in the ownership of an institution and, if at the same time, there also are changes in the institution’s programs of instruction, location, entrance requirements or other changes, the institution shall be required to submit an application for an initial certificate of approval and shall pay all applicable fees associated with an initial application.

(d) An application for renewal shall be deemed late if the applicant fails to submit a completed application for renewal, ~~or including all required documentation, information and fees~~ requested by the state board to complete the renewal process, ~~before the expiration date of the current certificate of approval~~ *at least 60 days prior to the expiration of the institution’s certificate of approval.*

(e) The state board shall determine on or before June 1 of each year the amount of revenue which will be required to properly carry out and enforce the provisions of the Kansas private and out-of-state postsecondary educational institution act for the next ensuing fiscal year and shall fix the fees authorized for such year at the sum deemed necessary for such purposes within the limits of this section. ~~Prior to adoption of any such fees, the state board shall afford the advisory commission an opportunity to make recommendations on the proposed fees.~~

(f) Fees may be charged to conduct onsite reviews for degree granting and non-degree granting institutions or to review curriculum in content areas where the state board does not have expertise.

(g) The provisions of this section shall expire on June 30, 2017.

Sec. 8. K.S.A. 2015 Supp. 72-4490, 72-4530, 74-32,163, 74-32,165, 74-32,166, 74-32,176 and 74-32,181 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 10, 2016.

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## CHAPTER 75

### HOUSE BILL No. 2545

AN ACT concerning criminal procedure; relating to arrest warrants; search warrants; amending K.S.A. 2015 Supp. 22-2302 and 22-2502 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 22-2302 is hereby amended to read as follows: 22-2302. (a) If the magistrate finds from the complaint, or from an affidavit or affidavits filed with the complaint or from sworn testimony, that there is probable cause to believe both that a crime has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue, except that a summons instead of a warrant may be issued if: (1) The prosecuting attorney so requests; or (2) in the case of a complaint alleging commission of a misdemeanor, the magistrate determines that a summons should be issued. More than one warrant or summons may issue on the same complaint. If a defendant fails to appear in response to the summons, a warrant shall issue.

(b) For a warrant or summons executed prior to July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section shall not be made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire.

(c) (1) For a warrant or summons executed on or after July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section shall not be open to the public until the warrant or summons has been executed. After the warrant or summons has been executed, such affidavits or sworn testimony shall be made available to:

(A) The defendant or the defendant's counsel, when requested, for such disposition as either may desire; and

(B) any person, when requested, in accordance with the requirements of this subsection.

(2) Any person may request that affidavits or sworn testimony be disclosed by filing such request with the clerk of the court. The clerk of the court shall promptly notify the defendant or the defendant's counsel,

the prosecutor and the magistrate that such request was filed. *The prosecutor shall promptly notify any victim. For the purposes of this subsection, victim shall include any victim of an alleged crime that resulted in the issuance of the arrest warrant, or, if the victim is deceased, the victim's family, as defined in K.S.A. 74-7335, and amendments thereto.*

(3) Within five business days after receiving notice of a request for disclosure from the clerk of the court, the defendant or the defendant's counsel and the prosecutor may submit to the magistrate, under seal, either:

(A) Proposed redactions, if any, to the affidavits or sworn testimony and the reasons supporting such proposed redactions; or

(B) a motion to seal the affidavits or sworn testimony and the reasons supporting such proposed seal.

(4) The magistrate shall review the requested affidavits or sworn testimony and any proposed redactions or motion to seal submitted by the defendant, the defendant's counsel or the prosecutor. The magistrate shall make appropriate redactions, or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that would:

(A) Jeopardize the *physical, mental or emotional* safety or well-being of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(B) reveal information obtained from a court-ordered wiretap or from a search warrant for a tracking device that has not expired;

(C) interfere with any prospective law enforcement action, criminal investigation or prosecution;

(D) reveal the identity of any confidential source or undercover agent;

(E) reveal confidential investigative techniques or procedures not known to the general public;

(F) endanger the life or physical safety of any person;

(G) reveal the name, address, telephone number or any other information which specifically and individually identifies the victim of any sexual offense described in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2015 Supp. 21-6419 through 21-6422, and amendments thereto;

(H) reveal the name of any minor; ~~or~~

(I) reveal any date of birth, personal or business telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information; or

(J) *constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that re-*

*sulted in the issuance of the arrest warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public. The provisions of this subparagraph shall only be used to redact and shall not be used to seal affidavits or sworn testimony.*

(5) Within five business days after receiving proposed redactions or a motion to seal from the defendant, the defendant's counsel or the prosecutor, or within 10 business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either:

(A) Order disclosure of the affidavits or sworn testimony with appropriate redactions, if any; or

(B) order the affidavits or sworn testimony sealed and not subject to public disclosure.

(6) (A) *If the magistrate orders disclosure of the affidavits or sworn testimony with appropriate redactions, if any, to any person in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record and shall be accessible to the public.*

(B) *If the magistrate orders the affidavits or sworn testimony sealed and not subject to public disclosure in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record that is not accessible to the public.*

(C) *Any request for disclosure of affidavits or sworn testimony in accordance with the requirements of this subsection shall become part of the court record and shall be accessible to the public, regardless of whether the magistrate orders disclosure with appropriate redactions, if any, or sealing of the requested affidavit or sworn testimony.*

Sec. 2. K.S.A. 2015 Supp. 22-2502 is hereby amended to read as follows: 22-2502. (a) A search warrant shall be issued only upon the oral or written statement, including those conveyed or received by electronic communication, of any person under oath or affirmation which states facts sufficient to show probable cause that a crime has been, is being or is about to be committed and which particularly describes a person, place or means of conveyance to be searched and things to be seized. Any statement which is made orally shall be either taken down by a certified shorthand reporter, sworn to under oath and made part of the application for a search warrant, or recorded before the magistrate from whom the search warrant is requested and sworn to under oath. Any statement orally made shall be reduced to writing as soon thereafter as possible. If the magistrate is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, the magistrate may issue a search warrant for:

(1) The search or seizure of the following:



(A) Anything that can be seized under the fourth amendment of the United States constitution;

(B) anything which has been used in the commission of a crime, or any contraband or any property which constitutes or may be considered a part of the evidence, fruits or instrumentalities of a crime under the laws of this state, any other state or of the United States. The term “fruits” as used in this act shall be interpreted to include any property into which the thing or things unlawfully taken or possessed may have been converted;

(C) any person who has been kidnapped in violation of the laws of this state or who has been kidnapped in another jurisdiction and is now concealed within this state;

(D) any human fetus or human corpse;

(E) any biological material, DNA, cellular material, blood, hair or fingerprints;

(F) any person for whom a valid felony arrest warrant has been issued in this state or in another jurisdiction; or

(G) (i) any information concerning the user of an electronic communication service; any information concerning the location of electronic communications systems, including, but not limited to, towers transmitting cellular signals involved in any wire communication; and any other information made through an electronic communications system; or

(ii) the jurisdiction granted in this paragraph shall extend to information held by entities registered to do business in the state of Kansas, submitting to the jurisdiction thereof, and entities primarily located outside the state of Kansas if the jurisdiction in which the entity is primarily located recognizes the authority of the magistrate to issue the search warrant; or

(2) the installation, maintenance and use of a tracking device.

(b) (1) The search warrant under subsection (a)(2) shall authorize the installation and use of the tracking device to track and collect tracking data relating to a person or property for a specified period of time, not to exceed 30 days from the date of the installation of the device.

(2) The search warrant under subsection (a)(2) may authorize the retrieval of the tracking data recorded by the tracking device during the specified period of time for authorized use of such tracking device within a reasonable time after the expiration of such warrant, for good cause shown.

(3) The magistrate may, for good cause shown, grant one or more extensions of a search warrant under subsection (a)(2) for the use of a tracking device, not to exceed 30 days each.

(c) Before ruling on a request for a search warrant, the magistrate may require the affiant to appear personally and may examine under oath the affiant and any witnesses that the affiant may produce. Such pro-

ceeding shall be taken down by a certified shorthand reporter or recording equipment and made part of the application for a search warrant.

(d) For a warrant executed prior to July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section or search warrants for tracking devices shall not be made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire.

(e) (1) For a warrant executed on or after July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section or search warrants for tracking devices shall not be open to the public until the warrant has been executed. After the warrant has been executed, such affidavits or sworn testimony shall be made available to:

(A) The defendant or the defendant's counsel, when requested, for such disposition as either may desire; and

(B) any person, when requested, in accordance with the requirements of this subsection.

(2) Any person may request that affidavits or sworn testimony be disclosed by filing such request with the clerk of the court. The clerk of the court shall promptly notify the defendant or the defendant's counsel, the prosecutor and the magistrate that such request was filed. *The prosecutor shall promptly notify any victim.*

(3) Within five business days after receiving notice of a request for disclosure from the clerk of the court, the defendant or the defendant's counsel and the prosecutor may submit to the magistrate, under seal, either:

(A) Proposed redactions, if any, to the affidavits or sworn testimony and the reasons supporting such proposed redactions; or

(B) a motion to seal the affidavits or sworn testimony and the reasons supporting such proposed seal.

(4) The magistrate shall review the requested affidavits or sworn testimony and any proposed redactions or motion to seal submitted by the defendant, the defendant's counsel or the prosecutor. The magistrate shall make appropriate redactions, or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that would:

(A) Jeopardize the *physical, mental or emotional* safety or well-being of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(B) reveal information obtained from a court-ordered wiretap or from a search warrant for a tracking device that has not expired;

(C) interfere with any prospective law enforcement action, criminal investigation or prosecution;

(D) reveal the identity of any confidential source or undercover agent;

(E) reveal confidential investigative techniques or procedures not known to the general public;

(F) endanger the life or physical safety of any person;

(G) reveal the name, address, telephone number or any other information which specifically and individually identifies the victim of any sexual offense described in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2015 Supp. 21-6419 through 21-6422, and amendments thereto;

(H) reveal the name of any minor; ~~or~~

(I) reveal any date of birth, personal or business telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information; or

(J) *constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that resulted in the issuance of the search warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public. The provisions of this subparagraph shall only be used to redact and shall not be used to seal affidavits or sworn testimony.*

(5) Within five business days after receiving proposed redactions or a motion to seal from the defendant, the defendant's counsel or the prosecutor, or within 10 business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either:

(A) Order disclosure of the affidavits or sworn testimony with appropriate redactions, if any; or

(B) order the affidavits or sworn testimony sealed and not subject to public disclosure.

(6) (A) *If the magistrate orders disclosure of the affidavits or sworn testimony with appropriate redactions, if any, to any person in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record and shall be accessible to the public.*

(B) *If the magistrate orders the affidavits or sworn testimony sealed and not subject to public disclosure in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record that is not accessible to the public.*

(C) *Any request for disclosure of affidavits or sworn testimony in accordance with the requirements of this subsection shall become part of the court record and shall be accessible to the public, regardless of whether the magistrate orders disclosure with appropriate redactions, if any, or sealing of the requested affidavit or sworn testimony.*

(f) As used in this section:

(1) “Electronic communication” means the use of electronic equipment to send or transfer a copy of an original document;

(2) “electronic communication service” and “electronic communication system” have the meaning as defined in K.S.A. 22-2514, and amendments thereto;

(3) “tracking data” means information gathered or recorded by a tracking device; ~~and~~

(4) “tracking device” means an electronic or mechanical device that permits a person to remotely determine or track the position or movement of a person or object. “Tracking device” includes, but is not limited to, a device that stores geographic data for subsequent access or analysis and a device that allows for the real-time monitoring of movement; *and*

(5) “victim” *shall include any victim of an alleged crime that resulted in the issuance of the search warrant, or, if the victim is deceased, the victim’s family, as defined in K.S.A. 74-7335, and amendments thereto.*

(g) Nothing in this section shall be construed as requiring a search warrant for cellular location information in an emergency situation pursuant to K.S.A. 22-4615, and amendments thereto.

Sec. 3. K.S.A. 2015 Supp. 22-2302 and 22-2502 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 10, 2016.

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## CHAPTER 76

## House Substitute for SENATE BILL No. 168

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; normal retirement; requiring certification that there is no prearranged agreement of employment with participating employers prior to retirement; providing certain penalties for violations thereof; employment after retirement; special provisions for certain retirants; certain duties of the joint committee on pensions, investments and benefits; employer rate of contribution; increasing compensation limitation for members of the Kansas police and firemen's retirement system; Kansas deferred retirement option program act; final average salary; distribution of DROP account; death and long-term disability benefits; employer payments to group insurance reserve fund; Kansas public employees retirement system act of 2015; accidental death benefit; annuity interest rate; Kansas public employees deferred compensation act; sharing of account information; tax treatment; local governmental unit plan option; amending K.S.A. 74-4916 and 74-4957a and K.S.A. 2015 Supp. 46-2201, 74-4914, 74-4927, 74-4937, 74-4957, 74-4986o, 74-4986p, 74-4986q, 74-49,313, 74-49b10, 74-49b14 and 74-49b15 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 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 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;

(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. 2015 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 without any prearranged agreement for employment with any participating employer*, 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. *Such application shall contain a certification by the member that the member will not be employed with any participating employer within 60 days of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.* 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. *The member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.*

(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 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~~ 2020, 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 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 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~~ 2020, 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 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 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 K.S.A. 76-12a01(b) or 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 par-

ticipating 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~~ 2020, 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, *except as specifically provided in this subsection*, 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. *Any retirant employed by a school district in a position under K.S.A. 74-4937(3), (4) or (5), and amendments thereto, shall be subject to the provisions of subsection (7)(h) which relate to a limitation on the total term of employment with any participating employer in which a retirant may receive such retirant's full retirement benefit;*

(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) *a poll worker hired to work an election day for a county election officer responsible for conducting all official elections held in the county; and*

~~(vi)~~ (vii) 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. *Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant.* 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~~ *a 30% employer contribution based on the retirant's compensation during any such period of employment plus 8%. On or before July 1, 2019, and at least every three years thereafter, the board, in consultation with the system's consulting actuary, shall evaluate the plan's experience with employment of such retirants and the corresponding employer contribution rate to assess whether the employer contribution rate can be expected to fund adverse experience or higher liabilities accruing under the system in connection with employment of such retirants, to the extent that such liability can be ascertained or estimated. Based on this evaluation of the plan's experience, the board may certify to the division of the budget, in*

*the case of the state, and to the agent for each other participating employer, a new rate if needed to more fully fund such adverse experience or additional liabilities, but such rate shall not be less than 30%; and*

(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~~ assurance protocol to the joint committee on pensions, investments and benefits system to extend the exception provided for in subsection (7)(d) by ~~one year~~ one-year increments for a total extension not to exceed three years. A written assurance protocol shall be submitted to the system for each one-year increment extension. If a school district submits a written assurance protocol, such written assurance protocol shall be signed by the superintendent and the board president of such school district. If a municipality, as defined in K.S.A. 75-1117, and amendments thereto, other than a school district, submits a written assurance protocol, such written assurance protocol shall be signed by the governing body or such governing body's designee for such municipality. Such written ~~appeal~~ assurance protocol 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~~ state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:

- (i) No applications were submitted for the position;
- (ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or
- (iii) if applications were submitted, none of the applicants possessed the appropriate licensure, certification or other necessary credentials for the position.

(f) On July 1, ~~2016~~ 2021, 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.

(h) Any retirant hired by any participating employer under the provisions of subsection (7)(d) or K.S.A. 74-4937(3), (4) or (5), and amendments thereto, may continue to receive such retirant's full retirement benefit so long as, commencing July 1, 2016, such retirant's total term of employment with all participating employers under one or more of such provisions does not exceed 48 months or four school years, whichever is

*less. After such period, such retirant shall not receive any retirement benefit for any month in any calendar year in which such retirant receives compensation in an amount equal to \$25,000 or more in such calendar year.*

*(8) If determined by the retirement system that a retirant entered into a prearranged agreement for employment with a participating employer prior to such retirant's retirement and prior to the end of the subsequent 60-day waiting period, the monthly retirement benefit of such retirant shall be suspended during the period that begins on the month in which the retirant is re-employed and ends six months after the retirant's termination of such employment. The retirant shall repay to the retirement system all monthly retirement benefits paid to the retirant by the retirement system that the retirant received after such employment began. The participating employer which hired such retirant shall be required to pay to the system any fees, fines, penalties or any other cost imposed by the internal revenue service and indemnify the system for any cost incurred by the system to defend any action brought by the internal revenue service based on in-service distributions which are a result of any determined prearranged agreement and for any cost incurred by the system to collect any monthly retirement benefit required to be repaid by such retirant pursuant to this subsection.*

*(9) For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.*

Sec. 3. K.S.A. 2015 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 without any prearranged agreement for employment with any participating employer*, 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. *Such member's application for retirement shall contain*

*a certification by the member that the member will not be employed with any participating employer within 60 days of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.*

(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. *The member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.*

(3) Before July 1, ~~2017~~ 2020, the provisions 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 K.S.A. 74-4914(1), and amendments thereto, related to normal retirement, or, if they retired under the provisions of K.S.A. 74-4914(4), and amendments thereto, related to early retirement, were retired more than 60 days prior to 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 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. *Such notice shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant.* 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 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 June 30, ~~2017~~ 2020. 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. *Such notice shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant.* 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~~ a 30% employer con-

tribution based on the retireant's compensation during any such period of employment ~~plus 8%.~~ *On or before July 1, 2019, and at least every three years thereafter, the board, in consultation with the system's consulting actuary, shall evaluate the plan's experience with employment of such retireants and the corresponding employer contribution rate to assess whether the employer contribution rate can be expected to fund adverse experience or higher liabilities accruing under the system in connection with employment of such retireants, to the extent that such liability can be ascertained or estimated. Based on this evaluation of the plan's experience, the board may certify to the division of the budget, in the case of the state, and to the agent for each other participating employer, a new rate if needed to more fully fund such adverse experience or additional liabilities, but such rate shall not be less than 30%.* The provisions of this subsection shall not apply to retireants employed as substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retireants employed as special teachers, except as specifically provided in this subsection.

(c) Each school district that uses the provisions of this subsection to hire retireants shall maintain documentation describing their recruiting efforts to obtain non-retireant 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-retireant 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 retireant's exemption has been revoked within 30 days of making such a determination.

(d) An employer may submit a written ~~appeal~~ *assurance protocol* to the ~~joint committee on pensions, investments and benefits~~ *system to extend* ~~make a one-time extension to~~ the exception provided for in this subsection by one year. *Such written assurance protocol shall be signed by the superintendent and the board president of the school district. Such written appeal assurance protocol shall include documentation of the employer's efforts to fill the position with a non-retireant. 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 retireant's exemption has been extended within 30 days of making such a determination state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:*

- (i) *No applications were submitted for the position;*
- (ii) *if applications were submitted, none of the applicants met the reference screening criteria of the employer; or*



(iii) *if applications were submitted, none of the applicants possessed an appropriate teaching license for the state of Kansas or possessed the appropriate credentials to receive any type of teaching license from the state of Kansas.*

(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~~ 2020.

(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. *Such notice shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant.* 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~~ a 30% employer contribution based on the retirant's compensation during any such period of employment ~~plus 8%.~~ *On or before July 1, 2019, and at least every three years thereafter, the board, in consultation with the system's consulting actuary, shall evaluate the plan's experience with employment of such retirants and the corresponding employer contribution rate to assess whether the employer contribution rate can be expected to fund adverse experience or higher liabilities accruing under the system in connection with employment of such retirants, to the extent that such liability can be ascertained or estimated. Based on this evaluation of the plan's experience, the board may certify to the division of the budget, in the case of the state, and to the agent for each other participating employer, a new rate if needed to more fully fund such adverse experience or additional liabilities, but such rate shall not be less than 30%.* 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 system to extend and make a one-time extension to the exception provided for in this subsection by one year. Such written assurance protocol shall be signed by the superintendent and the board president of the school district. Such written appeal assurance protocol 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 state that the position was advertised on multiple platforms for a~~

*minimum of 30 calendar days and that at least one of the following conditions occurred:*

- (i) No applications were submitted for the position;*
- (ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or*
- (iii) if applications were submitted, none of the applicants possessed an appropriate teaching license for the state of Kansas or possessed the appropriate credentials to receive any type of teaching license from the state of Kansas.*

*(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~~ 2020.*

*(6) The provisions of K.S.A. 74-4914(8), and amendments thereto, shall apply to retirants under the provisions of this section.*

*(7) Any retirant hired by any participating employer under the provisions of subsection (3), (4) or (5) or K.S.A. 74-4914(7)(d), and amendments thereto, may continue to receive such retirant's full retirement benefit so long as, commencing July 1, 2016, such retirant's total term of employment with all participating employers under one or more of such provisions does not exceed 48 months or four school years, whichever is less. After such period, such retirant shall not receive any retirement benefit for any month in any calendar year in which such retirant receives compensation in an amount equal to \$25,000 or more in such calendar year.*

*(8) For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.*

Sec. 4. K.S.A. 2015 Supp. 74-4957 is hereby amended to read as follows: 74-4957. (1) The normal retirement date for a member of the system who is appointed or employed prior to July 1, 1989, and who does not make an election pursuant to K.S.A. 74-4955a, 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 30 days, and the attainment of age 55 and the completion of 20 years of credited service or the completion of 32 years of credited service regardless of the age of the member. Any member may retire on such member's normal retirement date or on the first day of any month thereafter.

(2) *Early retirement.* Any member who is appointed or employed prior to July 1, 1989, and who does not make an election pursuant to K.S.A. 74-4955a, and amendments thereto, may retire before such mem-

ber's normal retirement date on the first day of any month coinciding with or following termination of employment not followed by employment with any participating employer within 30 days and the attainment of age 50 and the completion of 20 years of credited service.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section and K.S.A. 74-4955a, 74-4957a, 74-4958a, 74-4960a, 74-4963a and 74-4964a, and amendments thereto, the normal retirement date for any member who was, up to the entry date of such member's employer, covered by a pension system under the provisions of K.S.A. 13-14a01 to 13-14a14, inclusive, or 14-10a01 to 14-10a15, inclusive, and amendments thereto, shall be the first day of the month coinciding with or following the attainment of age 50 and the completion of 25 years of credited service.

(4) In no event shall a member be eligible to retire until such member has been a contributing member of the system for 12 months of participating service, and shall have given such member's employer prior notice of retirement.

(5) If a retirant who retired on or after July 1, 1994, is employed, elected or appointed in or to any position or office for which compensation for service is paid in an amount equal to ~~\$15,000~~ \$25,000 or more in any one such calendar year, by the same state agency or the same police or fire department of any county, city, township or special district or the same sheriff's office of a county 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 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 retirant employed by a participating employer in the Kansas police and firemen's retirement system 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.

Sec. 5. K.S.A. 74-4957a is hereby amended to read as follows: 74-4957a. (1) The normal retirement date for a member of the system who is appointed or employed on or after July 1, 1989, or who makes an election pursuant to K.S.A. 74-4955a, and amendments thereto, to be covered by the provisions of this act shall be the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 30 days and 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. Any such member may

retire on such member's normal retirement date or on the first day of any month thereafter.

(2) 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 not followed by employment with any participating employer within 30 days and the attainment of age 50 and the completion of 20 years of credited service.

(3) In no event shall a member be eligible to retire until such member has been a contributing member of the system for 12 months of participating service, and shall have given such member's employer prior notice of retirement.

(4) If a retirant who retired on or after July 1, 1996, is employed, elected or appointed in or to any position or office for which compensation for service is paid in an amount equal to ~~\$15,000~~ \$25,000 or more in any one such calendar year, by the same state agency or the same police or fire department of any county, city, township or special district or the same sheriff's office of a county 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 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 retirant employed by a participating employer in the Kansas police and firemen's retirement system 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.

(5) The provisions of this section shall be effective on and after July 1, 1989, and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a, and amendments thereto; and persons appointed or employed on or after July 1, 1989.

Sec. 6. K.S.A. 74-4916 is hereby amended to read as follows: 74-4916.

(1) Upon the death of a member before retirement, the member's accumulated contributions shall be paid to the member's beneficiary.

(2) (a) In the event that a member dies before retirement as a result of an accident arising out of and in the course of the member's actual performance of duty in the employ of a participating employer independent of all other causes and not as a result of a willfully negligent or intentional act of the member, an accidental death benefit shall be payable if: (A) A report of the accident, in a form acceptable to the board, is filed in the office of the executive director of the board within 60 days after the date of the accident causing such death and an application for

such benefit, in such form and manner as the board shall prescribe, is filed in the office of the executive director of the board within two years of the date of the accident, but the board may waive such time limits for a reasonable period if in the judgment of the board the failure to meet these limits was due to lack of knowledge or incapacity; and (B) the board finds from such evidence as it may require, to be submitted in such form and manner as it shall prescribe, that the natural and proximate cause of death was the result of an accident arising out of and in the course of the member's employment with a participating employer independent of all other causes at a definite time and place. Such accidental death benefit shall be a lump-sum amount of \$50,000 and an annual amount of  $\frac{1}{2}$  of the member's final average salary, *and for members who were first employed by a participating employer and covered as a member of the system under the provisions of K.S.A. 74-49,301 et seq., and amendments thereto, an annual amount of 50% of such member's salary averaged over the final three years of such member's covered employment*, which shall accrue from the first day of the month following the date of death and which shall be payable in monthly installments or as the board may direct, but, after June 30, 1982, in no case shall the accidental death benefit be less than \$100 per month. The accidental death benefit payments shall be paid to the surviving spouse of such deceased member, such payments to continue so long as such surviving spouse lives or if there is no surviving spouse, or in the case the spouse dies before the youngest child of such deceased member attains age 18 or before the youngest child of such deceased member attains age 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto, or if there are one or more children of the member who are totally disabled and dependent on the member or spouse, then to the child or children of such member under age 18 or under age 23, if such child or children are full-time students as provided in K.S.A. 74-49,117, and amendments thereto, and to the child or children of the member who are totally disabled and dependent on the member or spouse, divided in such manner as the board in its discretion shall determine, to continue until the youngest surviving child dies or attains age 18 or attains age 23 if such child is a full-time student as provided in K.S.A. 79-49,117, and amendments thereto, or, in the case of the child or children who are totally disabled and dependent on the member or spouse, until death or until no longer totally disabled, or if there is no surviving spouse or child eligible for accidental death benefits under this subsection (2) at the time of the member's death, then to the parent or parents of such member who are dependent on such member, to continue until the last such parent dies. All payments due under this subsection (2) to a minor shall be made to a legally appointed conservator of such minor or totally disabled child as provided in ~~subsection (7) of K.S.A. 74-49,127~~ *74-49,127, and amendments thereto*. Commencing on the effective date of this act, any surviving spouse, who was

receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act.

(b) In construction of this section of the act there shall be no presumption that the death of the member was the result of an accident nor shall there be a liberal interpretation of the law or evidence in favor of the person claiming under this subsection (2). In the event of the death of a member resulting from a heart, circulatory or respiratory condition there must be clear and precise evidence that death was the result of an accident independent of all other causes which arose out of and in the course of the member's actual performance of duties in the employ of a participating employer.

(c) The annual benefit under this subsection (2) shall be reduced by any workers compensation benefit payable. If the workers compensation benefit is paid in a lump-sum, the amount of such reduction shall be calculated on a monthly basis over the period of time for which workers compensation benefits would have been payable had such lump-sum not been paid. For any recipient already in receipt of such benefits on the effective date of this act, no change in the original reduction for workers compensation benefits shall be applicable to benefits paid prior to July 1, 1994. In the event that a member should die as a result of an accident as described in this subsection (2), all elections or options previously made by the deceased member shall become void and of no effect whatsoever and the retirement system shall be liable only for the accidental death benefit, refund of accumulated contributions as described in subsection (1) and any insured death benefit that may be due. The benefit payable under this subsection (2) shall be known and referred to as the "accidental death benefit."

(3) (a) Upon the application of a member, or the member's appointing authority acting for the member, a member who is in the employ of a participating employer and becomes totally and permanently disabled for duty in the employ of a participating employer, by reason of an accident which occurred prior to July 1, 1975, may be retired by the board if: (A) The board finds the total and permanent disability to be the natural and proximate result of an accident causing personal injury or disease independent of all other causes and arising out of and in the course of the member's actual performance of duties as an employee of a participating employer; ~~and~~ (B) a report of the accident, in a form acceptable to the board is filed in the office of the executive director of the board within 200 days after the date of the accident causing such injury; ~~and~~ (C) such application for retirement under this provision, in such form and manner as shall be prescribed by the board, is filed in the office of the

executive director of the board within two years of the date of the accident; and (D) after a medical examination of the member has been made by or under the direction of a medical physician or physicians or any other practitioner holding a valid license to practice a branch of the healing arts issued by the state board of healing arts designated by the board and the medical physician or physicians or any other practitioner holding a valid license to practice a branch of the healing arts issued by the state board of healing arts report in writing to the board that the member is physically or mentally totally disabled for duty in the employ of a participating employer and that such disability will probably be permanent; and (E) the board finds that the member became permanently and totally disabled on a date certain based on the evidence furnished and the professional guidance obtained and that such disability was not the result of a willfully negligent or intentional act of the member. If the board shall so retire the applicant, the member shall receive annually an accidental total disability benefit equal to  $\frac{1}{2}$  of the member's final average salary which shall accrue from the first day of the month following the date of such accidental total and permanent disability as found by the board payable in monthly installments or as the board may direct.

(b) In construction of this subsection (3) there shall be no presumption that the disability of the member was the result of an accident nor shall there be a liberal interpretation of the law or evidence in favor of the member claiming under this subsection (3). In the event of the disability of a member resulting from a heart, circulatory or respiratory condition there must be clear and precise evidence that disability was the result of an accident independent of all other causes which arose out of and in the course of the member's actual performance of duties in the employ of a participating employer.

(c) A member will continue to receive such accidental total disability benefit so long as the member is wholly and continuously disabled by such injury and prevented thereby from engaging in any gainful occupation or employment for which the member is reasonably qualified by reason of education, training or experience. The accidental loss of both hands by actual severance through or above the wrist joint, or the accidental loss of both feet by actual severance through or above the ankle joint or the entire and irrecoverable accidental loss of sight of both eyes, or such severance of one hand and one foot, and such severance of one hand or one foot and such loss of sight of one eye, shall be deemed accidental total and permanent disability and accidental total disability benefits shall be paid so long as the member lives.

(d) Any retirant retired by reason of such accidental total and permanent disability who has been receiving benefits under the provisions of this subsection (3) for a period of five years shall be deemed finally retired and shall not be subject to further medical examinations, except that if the board of trustees has reasonable grounds to question whether



the retirant remains totally and permanently disabled, a further medical examination or examinations may be required. Refusal or neglect to submit to examination shall be sufficient cause for suspending or discontinuing the accidental total disability benefit. If the refusal or neglect continues for a period of one year, all of the member's rights with respect to such accidental total disability benefit may be revoked by the board.

(e) In the event that a retirant who is receiving an accidental total disability benefit dies within five years after the date of the retirant's retirement, an accidental death benefit shall then be payable as provided in subsection (2) of this section.

(f) A member who retires under the provisions of this subsection (3) shall receive such benefits as provided in this subsection (3) in lieu of all other retirement benefits provided under the retirement system except that no member shall be entitled to receive any payments under this subsection (3) for a period for which insured disability benefits are received.

(g) The value, as determined by the board upon recommendation of the actuary, of any workmen's compensation benefits paid or payable to the recipient of an accidental total disability benefit shall be deducted from the amount payable under this section.

(h) The benefit payable under subsection (3) of this section shall be known and referred to as "accidental total disability benefit."

(4) The payment of benefits as provided in this section is subject to the provisions of K.S.A. 74-49,123, and amendments thereto.

Sec. 7. K.S.A. 2015 Supp. 74-4927 is hereby amended to read as follows: 74-4927. (1) The board may establish a plan of death and long-term disability benefits to be paid to the members of the retirement system as provided by this section. The long-term disability benefit shall be payable in accordance with the terms of such plan as established by the board, except that for any member who is disabled prior to the effective date of this act, the annual disability benefit amount shall be an amount equal to 66 $\frac{2}{3}$ % of the member's annual rate of compensation on the date such disability commenced. Such plan shall provide that:

(A) ~~For deaths occurring prior to January 1, 1987, the right to receive such death benefit shall cease upon the member's attainment of age 70 or date of retirement whichever first occurs.~~ The right to receive such long-term disability benefit shall cease: (i) For a member who becomes eligible for such benefit before attaining age 60, upon the date that such member attains age 65 or the date of such member's retirement, whichever first occurs;; and (ii) for a member who becomes eligible for such benefit at or after attaining age 60, the date that such member has received such benefit for a period of five years, or upon the date of such member's retirement, whichever first occurs.

(B) Long-term disability benefit payments shall be in lieu of any ac-

cidental total disability benefit that a member may be eligible to receive under ~~subsection (3)~~ of K.S.A. 74-4916(3), and amendments thereto. The member must make an initial application for social security disability benefits and, if denied such benefits, the member must pursue and exhaust all administrative remedies of the social security administration which include, but are not limited to, reconsideration and hearings. Such plan may provide that any amount which a member receives as a social security benefit or a disability benefit or compensation from any source by reason of any employment including, but not limited to, workers compensation benefits may be deducted from the amount of long-term disability benefit payments under such plan. However, in no event shall the amount of long-term disability benefit payments under such plan be reduced by any amounts a member receives as a supplemental disability benefit or compensation from any source by reason of the member's employment, provided such supplemental disability benefit or compensation is based solely upon the portion of the member's monthly compensation that exceeds the maximum monthly compensation taken into account under such plan. As used in this paragraph, "maximum monthly compensation" means the dollar amount that results from dividing the maximum monthly disability benefit payable under such plan by the percentage of compensation that is used to calculate disability benefit payments under such plan. During the period in which such member is pursuing such administrative remedies prior to a final decision of the social security administration, social security disability benefits may be estimated and may be deducted from the amount of long-term disability benefit payments under such plan. If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment other than a supplemental benefit based solely on compensation in excess of the maximum monthly compensation taken into account under such plan, or any part thereof, is paid in a lump-sum, the amount of the reduction shall be calculated on a monthly basis over the period of time for which the lump-sum is given. As used in this section, "workers compensation benefits" means the total award of disability benefit payments under the workers compensation act notwithstanding any payment of attorney fees from such benefits as provided in the workers compensation act.

(C) The plan may include other provisions relating to qualifications for benefits; schedules and graduation of benefits; limitations of eligibility for benefits by reason of termination of employment or membership; conversion privileges; limitations of eligibility for benefits by reason of leaves of absence, military service or other interruptions in service; limitations on the condition of long-term disability benefit payment by reason of improved health; requirements for medical examinations or reports; or any other reasonable provisions as established by rule and regulation of uniform application adopted by the board.

(D) Any visually impaired person who is in training at and employed

by a sheltered workshop for the blind operated by the secretary for children and families and who would otherwise be eligible for the long-term disability benefit as described in this section shall not be eligible to receive such benefit due to visual impairment as such impairment shall be determined to be a preexisting condition.

(2) (A) In the event that a member becomes eligible for a long-term disability benefit under the plan authorized by this section such member shall be given participating service credit for the entire period of such disability. Such member's final average salary shall be computed in accordance with ~~subsection (17) of K.S.A. 74-4902(17)~~, and amendments thereto, except that the years of participating service used in such computation shall be the years of salaried participating service.

(B) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding retirement, such member's final average salary shall be adjusted upon retirement by the actuarial salary assumption rates in existence during such period of disability. ~~Effective July 1, 1993, such member's final average salary shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's final average salary shall be adjusted upon retirement by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.~~

(C) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding death, such member's current annual rate shall be adjusted by the actuarial salary assumption rates in existence during such period of disability. ~~Effective July 1, 1993, such member's current annual rate shall be adjusted upon death by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's current annual rate shall be adjusted upon death by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of death, for each year of disability after July 1, 1998.~~

(3) (A) To carry out the legislative intent to provide, within the funds made available therefor, the broadest possible coverage for members who are in active employment or involuntarily absent from such active employment, the plan of death and long-term disability benefits shall be

subject to adjustment from time to time by the board within the limitations of this section. The plan may include terms and provisions which are consistent with the terms and provisions of group life and long-term disability policies usually issued to those employers who employ a large number of employees. The board shall have the authority to establish and adjust from time to time the procedures for financing and administering the plan of death and long-term disability benefits authorized by this section. Either the insured death benefit or the insured disability benefit or both such benefits may be financed directly by the system or by one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in this state.

(B) The board may contract with one or more insurance companies, which are authorized and licensed to transact group life and group accident and health insurance in Kansas, to underwrite or to administer or to both underwrite and administer either the insured death benefit or the long-term disability benefit or both such benefits. Each such contract with an insurance company under this subsection shall be entered into on the basis of competitive bids solicited and administered by the board. Such competitive bids shall be based on specifications prepared by the board.

(i) In the event the board purchases one or more policies of group insurance from such company or companies to provide either the insured death benefit or the long-term disability benefit or both such benefits, the board shall have the authority to subsequently cancel one or more of such policies and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund.

(ii) In addition, the board shall have the authority to cancel any policy or policies of group life and long-term disability insurance in existence on the effective date of this act and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund. Notwithstanding any other provision of law, no premium tax shall be due or payable by any such company or companies on any such policy or policies purchased by the board nor shall any brokerage fees or commissions be paid thereon.

(4) (A) There is hereby created in the state treasury the group insurance reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. The cost of the plan of death and long-term disability benefits shall be paid from the group insurance reserve fund, which shall be administered by the board. ~~For the period commencing July 1, 2013, and ending June 30, 2015, each participating~~

~~employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to .85% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. For the period commencing July 1, 2015, and all periods thereafter, Each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to 1.0% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. Notwithstanding the provisions of this subsection, no participating employer *other than the state of Kansas* shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on April 1, ~~2013~~ 2016, and ending on June 30, ~~2013~~ 2017. *Notwithstanding the provisions of this subsection, the state of Kansas shall not appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on March 25, 2016, and ending on June 30, 2017.*~~

(B) The director of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services a sum to pay the state's contribution to the group insurance reserve fund as provided by this section and shall present the same to the legislature for allowances and appropriation.

(C) The provisions of ~~subsection (4) of K.S.A. 74-4920(4)~~, and amendments thereto, shall apply for the purpose of providing the funds to make the contributions to be deposited to the group insurance reserve fund.

(D) Any dividend or retrospective rate credit allowed by an insurance company or companies shall be credited to the group insurance reserve fund and the board may take such amounts into consideration in determining the amounts of the benefits under the plan authorized by this section.

(5) The death benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as insured death benefit. The long-term disability benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as long-term disability benefit.

(6) The board is hereby authorized to establish an optional death benefit plan for employees and spouses and dependents of employees. Except as provided in subsection (7), such optional death benefit plan shall be made available to all employees who are covered or may hereafter become covered by the plan of death and long-term disability benefits

authorized by this section. The cost of the optional death benefit plan shall be paid by the applicant either by means of a system of payroll deductions or direct payment to the board. The board shall have the authority and discretion to establish such terms, conditions, specifications and coverages as it may deem to be in the best interest of the state of Kansas and its employees which should include term death benefits for the person's period of active state employment regardless of age, but in no case, shall the maximum allowable coverage be less than \$200,000. The cost of the optional death benefit plan shall not be established on such a basis as to unreasonably discriminate against any particular age group. The board shall have full administrative responsibility, discretion and authority to establish and continue such optional death benefit plan and the director of accounts and reports of the department of administration shall when requested by the board and from funds appropriated or available for such purpose establish a system to make periodic deductions from state payrolls to cover the cost of the optional death benefit plan coverage under the provisions of this subsection (6) and shall remit all deductions together with appropriate accounting reports to the system. There is hereby created in the state treasury the optional death benefit plan reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. All funds received by the board, whether in the form of direct payments, payroll deductions or otherwise, shall be accounted for separately from all other funds of the retirement system and shall be paid into the optional death benefit plan reserve fund, from which the board is authorized to make the appropriate payments and to pay the ongoing costs of administration of such optional death benefit plan as may be incurred in carrying out the provisions of this subsection (6).

(7) Any employer other than the state of Kansas which is currently a participating employer of the Kansas public employees retirement system or is in the process of affiliating with the Kansas public employees retirement system may also elect to affiliate for the purposes of subsection (6). All such employers shall make application for affiliation with such system, to be effective on January 1 or July 1 next following application.

(8) For purposes of the death benefit provided under the plan of death and long-term disability benefits authorized by this section and the optional death benefit plan authorized by subsection (6), commencing on the effective date of this act, in the case of medical or financial hardship of the member as determined by the executive director, or otherwise commencing January 1, 2005, the member may name a beneficiary or beneficiaries other than the beneficiary or beneficiaries named by the member to receive other benefits as provided by the provisions of K.S.A. 74-4901 et seq., and amendments thereto.

Sec. 8. K.S.A. 2015 Supp. 74-4986o is hereby amended to read as

follows: 74-4986o. (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 *and any change in the retirement benefit resulting from the recalculation of the member's final average salary as provided in subsection (c).*

*(c) A member may have such member's final average salary recalculated at the time of retirement to include any payments of the member's accumulated sick and annual leave compensation made at retirement. If the member's recalculated final average salary is higher than the final average salary used in calculating the member's monthly DROP accrual, the retirement benefit shall be based on the recalculated final average salary.*

*(d) An amount equal to the difference between the member's monthly DROP accrual and the monthly retirement benefit calculated under subsection (c), if any, times the number of months the member participated in the DROP, shall be credited as a lump sum to the member's DROP account at termination of participation and commencement of retirement. No interest shall be credited to such lump sum credit.*

*(e) If a member who selected a joint and survivor retirement benefit*

*option dies during the DROP period, the joint survivor benefit shall be calculated as provided in subsection (c) and any lump sum credit that would have been payable to the member under subsection (d) shall be applied prior to distribution of the DROP account to the member's beneficiary as provided in K.S.A. 2015 Supp. 74-4986p(b), and amendments thereto.*

Sec. 9. K.S.A. 2015 Supp. 74-4986p is hereby amended to read as follows: 74-4986p. (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, *including any lump sum credited as provided in K.S.A. 2015 Supp. 74-4986o(d), and amendments thereto.* 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.

Sec. 10. K.S.A. 2015 Supp. 74-4986q is hereby amended to read as follows: 74-4986q. (a) A member, who satisfies the requirements of this act, shall be entitled to a distribution of such member's DROP account, *including any lump sum credited as provided in K.S.A. 2015 Supp. 74-4986o(d), and amendments thereto.* 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.

Sec. 11. K.S.A. 2015 Supp. 74-49,313 is hereby amended to read as follows: 74-49,313. (a) Except as provided in subsection (e), a member who has a nonforfeitable interest in the member's retirement annuity account, at any time after termination from service and the attainment of normal retirement age, shall receive an annuity based upon the balance in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start



date and an interest rate equal to the actuarial assumed investment rate of return established by the board minus 2%, as of the member's annuity start date. The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(b) Except as provided in subsection (e), a member who has a vested interest in the member's retirement annuity account, who terminates covered employment, without forfeiting such member's account, with the completion of at least 10 years of service, shall be eligible to receive, upon attainment of age 55, an annuity based upon employer credits and interest credits in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and an interest rate established by the legislature as of the member's annuity start date, and such interest rate shall ~~initially be 6%~~ *equal to the actuarially assumed investment rate of return established by the board minus 2%, as of the member's annuity start date.* The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(c) The form of benefit payable under subsections (a) and (b) shall be a single life annuity with 10-year certain. The member may elect any option described in K.S.A. 74-4918, and amendments thereto, except the partial lump-sum option, subject to actuarial factors established by the board from time to time. The benefit option selected may include a self-funded cost-of-living adjustment feature, in which the account value is converted to a benefit amount that increases by a fixed percentage over time. One or more fixed percentages shall be established by the board, which may be changed from time to time. In lieu of a part of an annuity, for a member entitled to a benefit under subsection (a), the member may elect to receive a lump-sum of such member's retirement annuity account of any fixed dollar amount or percent, but in no event may the lump-sum option elected under this section and the lump-sum option elected under ~~subsection (a) of K.S.A. 2015 Supp. 74-49,311(a)~~, and amendments thereto, exceed 30% of the total value of such member's annuity savings account and retirement annuity account.

(d) Except as provided in subsection (e), in the case of an active or inactive member:

- (1) Who is vested in the member's retirement annuity account;
- (2) who has five or more years of service at death; and
- (3) who dies before attaining normal retirement age, with such member's spouse at time of death designated as such member's sole primary beneficiary, the member's surviving spouse on and after the date the member would have attained normal retirement age had such member not died, shall receive an annuity based upon employer credits and in-

terest credits in the retirement annuity account, using factors established by the board by official action as of the beneficiary's annuity start date. The form of benefit shall be a single life annuity with 10-year certain.

(e) If a member's vested retirement annuity account is less than \$1,000 upon separation from service, or the total of the member's vested retirement annuity account and annuity savings account balance is less than \$1,000, the account balance or balances shall be mandatorily distributed to the member in accordance with section 401(a)(31)(B) of the federal internal revenue code. If the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover or to receive the distribution directly, then the board will pay the distribution to the member directly.

Sec. 12. K.S.A. 2015 Supp. 74-49b10 is hereby amended to read as follows: 74-49b10. (a) The board is authorized to enter into a voluntary participation agreement with any employee of the state whereby a portion of the employee's salary or compensation from the state shall be deferred and deducted each payroll period in accordance with subsection (b) and the Kansas public employees deferred compensation plan. Such participation agreement may require each participant to pay a service charge to defray all or part of any significant costs incurred and to be recovered by the state pursuant to ~~subsection (c)~~ of K.S.A. 2015 Supp. 74-49b09(c), and amendments thereto, as a result of the administration of this act.

(b) Pursuant to this act and such participation agreements, the director of accounts and reports, as a part of the system of regular payroll deductions and using funds either appropriated or otherwise available for such purpose, shall establish a system for the following purposes: (1) To defer each payroll period the amounts authorized in such participation agreements from the salary or compensation of each employee who has entered into a participation agreement; and

(2) to remit these moneys in accordance with the Kansas public employees deferred compensation plan.

(c) (1) Pursuant to section 401(a) of the federal internal revenue code, the board may establish a qualified plan under which the state may contribute a specified amount, subject to appropriations, to the deferred compensation plan for state employees who have entered into a voluntary participation agreement with the board under this section.

(2) Any state agency that has on its payroll persons participating in any qualified plan established under subsection (c)(1), shall pay from any moneys available to the state agency for such purpose an amount specified in the qualified plan, subject to appropriations for that purpose.

(d) The Kansas public employees deferred compensation plan shall exist and be in addition to, and shall not be a part of any retirement or pension system for employees. The state shall not be responsible for any

loss incurred by any participant under the Kansas public employees deferred compensation plan established and approved pursuant to this act.

(e) *Notwithstanding the provisions of K.S.A. 74-4909(10), and amendments thereto, for those employees who entered into a voluntary participation agreement pursuant to the provisions of this section or K.S.A. 2015 Supp. 74-49b15, and amendments thereto, and who are also members of a retirement system administered by the board, the board may share information from the participants' retirement or pension system accounts with a contracting party pursuant to the provisions of K.S.A. 2015 Supp. 74-49b09, and amendments thereto, for the purpose of facilitating the participants' comprehensive retirement income planning.*

(f) Any amount of the employee's salary or compensation that is deferred on a pre-tax basis under ~~such an~~ authorized participation agreement shall continue to be included as regular compensation for all purposes of computing retirement and pension benefits earned by any such employee, ~~but~~ Any sum so deferred or deducted shall not be subject to ~~any state or local~~ income taxes for the year in which such sum is ~~earned~~ contributed but shall be subject to applicable state ~~and local~~ income taxes for the year in which ~~such sum is~~ distributions are received by the employee. *Any amounts contributed to a Roth 457 plan under this act shall be subject to state withholding and income taxes for the year in which such sum is contributed to the plan, but shall not be subject to applicable state income taxes for the year in which distributions are received by the employee, unless the provisions of article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, provide otherwise.*

~~(f)~~(g) A deferred compensation clearing fund shall be established in the state treasury in which all compensation deferred, deducted or contributed in accordance with this act and as provided for in each participation agreement shall be temporarily placed.

Sec. 13. K.S.A. 2015 Supp. 74-49b14 is hereby amended to read as follows: 74-49b14. (a) The board may enter into an agreement with any local government of the state of Kansas making the services under contracts entered into by the board under ~~subsection (b) of~~ K.S.A. 2015 Supp. 74-49b09(b), and amendments thereto, available to the local government, subject to the terms and conditions of those contracts and the agreement entered into between the board and the local governmental unit, if the local governmental unit meets all of the following conditions: (1) The local governmental unit meets the definition of eligible employer as defined in K.S.A. 74-4902, and amendments thereto;

(2) the governing body of the local governmental unit has enacted an ordinance or resolution adopting the terms of the deferred compensation plan for state employees established under K.S.A. 2015 Supp. 74-49b09, and amendments thereto, as the local government deferred compensation plan for the employees of that local governmental unit; and

(3) the governing body certified that the local governmental unit will make such local government deferred compensation plan available to its employees and will administer it in accordance with the provisions of this act, section 457 of the federal internal revenue code of 1986, and amendments thereto, and the deferred compensation plan established by the board under K.S.A. 2015 Supp. 74-49b09, and amendments thereto.

(b) *Pursuant to section 401(a) of the federal internal revenue code, and subject to the provisions of K.S.A. 2015 Supp. 74-49b10, and amendments thereto, the board may establish a qualified plan under which local governmental units participating in the deferred compensation plan may contribute a specified amount to such plan.*

(c) Except for such agreement, the board or any other state officer or employee shall not be involved nor incur any expense in the administration of a plan adopted by a local governmental unit under subsection (a) or (b), except to the extent that such costs are reimbursed under one or both of the methods identified in ~~subsection (c)~~ of K.S.A. 2015 Supp. 74-49b09(c), and amendments thereto.

~~(c)~~(d) The state shall not be responsible for any loss incurred by or obligation of any local governmental unit participant under a local government deferred compensation plan established as provided pursuant to subsection (a) or (b).

Sec. 14. K.S.A. 2015 Supp. 74-49b15 is hereby amended to read as follows: 74-49b15. (a) Subject to the agreement entered into under the provisions of K.S.A. 2015 Supp. 74-49b14, and amendments thereto, the governing body of a local government unit may establish such conditions as the governing body deems advisable to govern the voluntary participation of its employees in the local government deferred compensation plan established by the local governmental unit under the provisions of K.S.A. 2015 Supp. 74-49b14, and amendments thereto.

(b) Any amount of an employee's salary or compensation that is deferred on a pre-tax basis under ~~such plan~~ an authorized participation agreement shall continue to be included as regular compensation for all purposes of computing retirement and pension benefits earned by such employee, ~~but~~ Any sum so deferred or deducted shall not be subject to any state or local income tax for the year in which such sum is ~~earned~~ contributed but shall be subject to applicable state and local income taxes for the year in which ~~such sum is~~ distributions are received by the employee. Any amounts contributed to a Roth 457 plan under this act shall be subject to state withholding and income taxes for the year in which such sum is contributed to the plan, but shall not be subject to applicable state income taxes for the year in which distributions are received by the employee, unless the provisions of article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, provide otherwise.

Sec. 15. K.S.A. 74-4916 and 74-4957a and K.S.A. 2015 Supp. 46-

2201, 74-4914, 74-4927, 74-4937, 74-4957, 74-4986o, 74-4986p, 74-4986q, 74-49,313, 74-49b10, 74-49b14 and 74-49b15 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 10, 2016.

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## CHAPTER 77

### House Substitute for SENATE BILL No. 193

AN ACT concerning schools; relating to standards and requirements for the treatment of students; seclusion and restraint of students; amending K.S.A. 2015 Supp. 72-89d02, 72-89d03, 72-89d04, 72-89d05 and 72-89d08 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 72-89d02 is hereby amended to read as follows: 72-89d02. As used in K.S.A. 2015 Supp. 72-89d01 through 72-89d07, and amendments thereto:

(a) *“Appointing authority” means a group of persons empowered by statute to make human resource decisions that affect the employment of officers.*

(b) *“Campus police officer” means a school security officer designated by the board of education of any school district pursuant to K.S.A. 72-8222, and amendments thereto.*

(c) *“Chemical restraint” means the use of medication to control a student’s violent physical behavior or restrict a student’s freedom of movement.*

(d) *“Commissioner” means the commissioner of education.*

(e) *“Complaint” means a written document that a parent files with a local board as provided for in this act.*

~~(a)~~(f) *“Department” means the state department of education.*

~~(b)~~(g) *“Emergency safety intervention” means the use of seclusion or physical restraint, but does not include the use of time-out.*

(h) *“Hearing officer” means the state department employee designated to conduct an administrative review.*

(i) *“Incident” means each occurrence of the use of an emergency safety intervention.*

(j) *“Law enforcement officer” and “police officer” means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of criminal or traffic law of this state or any Kansas municipality. This term includes a campus police officer.*

(k) *“Legitimate law enforcement purpose” means a goal within the*

*lawful authority of an officer that is to be achieved through methods or conduct condoned by the officer's appointing authority.*

(l) *“Local board” means the board of education of a district or the governing body of any accredited nonpublic school.*

(m) *“Mechanical restraint” means any device or object used to limit a student's movement.*

~~(n)~~ (n) *“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.*

(o) *“Physical escort” means the temporary touching or holding the hand, wrist, arm, shoulder or back of a student who is acting out for the purpose of inducing the student to walk to a safe location. Physical escort shall not be considered an emergency safety intervention.*

~~(p)~~ (p) *“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.*

~~(q)~~ (q) *“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.*

(r) *“School resource officer” means a law enforcement officer or police officer employed by a local law enforcement agency who is assigned to a district through an agreement between the local law enforcement agency and the district.*

(s) *“School security officer” means a person who is employed by a board of education of any school district for the purpose of aiding and supplementing state and local law enforcement agencies in which the school district is located, but is not a law enforcement officer or police officer.*

~~(t)~~ (t) *“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.

(u) *“State board” means the Kansas state board of education.*

(v) *“Time-out” means a behavioral intervention in which a student is temporarily removed from a learning activity without being secluded.*

Sec. 2. K.S.A. 2015 Supp. 72-89d03 is hereby amended to read as

follows: 72-89d03. (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 *an* emergency safety ~~interventions~~ *intervention* 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~~ *an emergency safety intervention* 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 emergency safety intervention*. 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. *Such written statement shall include an explanation of the student's diagnosis, a list of any reasons why an emergency safety intervention would put the student in mental or physical danger and any suggested alternatives to the use of emergency safety interventions. Notwithstanding the provisions of this subsection, a student may be subjected to an emergency safety intervention, if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.*

(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.

(f) *The following types of restraint shall be prohibited:*

(1) *Prone, or face-down, physical restraint; supine, or face-up physical restraint; physical restraint that obstructs the airway of a student; or any physical restraint that impacts a student's primary mode of communication;*

(2) *chemical restraint, except as prescribed treatments for a student's*

*medical or psychiatric condition by a person appropriately licensed to issue such treatments; and*

*(3) mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law, any device used by a certified law enforcement officer in carrying out law enforcement duties, seatbelts and any other safety equipment when used to secure students during transportation.*

*(g) Each local board shall develop and implement written policies to govern the use of emergency safety interventions in schools. At a minimum, written district policies shall conform to the standards, definitions and requirements of this act.*

*Such written policies shall include that:*

*(1) (A) School personnel training shall be designed to meet the needs of personnel as appropriate to their duties and potential need for the use of emergency safety interventions;*

*(B) training shall address prevention techniques, de-escalation techniques and positive behavioral intervention strategies;*

*(C) training shall be consistent with nationally recognized training programs; and*

*(D) schools shall maintain written or electronic documentation on training provided and lists of participants in each training for inspection by the Kansas state board of education;*

*(2) a local dispute resolution process shall be developed, which shall include the following:*

*(A) A procedure for a parent to file a complaint with the local board. If a parent believes that an emergency safety intervention has been used on the parent's child in violation of the act, rules and regulations or the local board's emergency safety intervention policy, the parent may file a complaint within 30 days of the date on which the parent was informed of the use of the emergency safety intervention;*

*(B) a procedure for complaint investigation;*

*(C) a procedure to implement a dispute-resolution final decision. The local board's decision shall be in writing and shall include findings of fact and any corrective action required by the school if the local board deems such action necessary. The local board's final decision shall be mailed to the parent and the department within 30 days of the the local board's receipt of the complaint; and*

*(D) a procedure setting out the parent's right to request an administrative review by the state board, including information as to the deadline by which the parent must submit the request to the state board;*

*(3) a system for the collection and maintenance of documentation for each use of an emergency safety intervention as set forth in K.S.A. 2015 Supp. 72-89d04, and amendments thereto;*

*(4) a procedure for the periodic review of the use of emergency safety*



*interventions at each school, which shall be compiled and submitted at least biannually to the superintendent or the superintendent's designee; and*

*(5) a schedule for when and how parents are provided with notice of the local board's written policies on the use of emergency safety interventions.*

*(h) Written policies developed pursuant to this act shall be accessible on each school's website and shall be included in each school's code of conduct, school safety plan or student handbook.*

*(i) (1) Campus police officers and school resource officers shall be exempt from the requirements of this act when engaged in an activity that has a legitimate law enforcement purpose.*

*(2) School security officers shall not be exempt from the requirements of this act.*

Sec. 3. K.S.A. 2015 Supp. 72-89d04 is hereby amended to read as follows: 72-89d04. (a) (1) 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,~~ on the same day the emergency safety intervention was used. ~~If the school is unable to contact the parent, the school shall attempt to contact the parent using at least two methods of contact. The same-day notification requirement of this subsection shall be deemed satisfied if the school attempts at least two methods of contact. A parent may designate a preferred method of contact to receive the same-day notification required by this subsection. A parent may agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day. Written documentation of the use of an emergency safety intervention used~~ intervention 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. Such written documentation shall include: (A) The events leading up to the incident; (B) student behaviors that necessitated the emergency safety intervention; (C) steps taken to transition the student back into the educational setting; (D) the date and time the incident occurred, the type of emergency safety intervention used, the duration of the emergency safety intervention and the school personnel who used or supervised the emergency safety intervention; (E) space or an additional form for parents to provide feedback or comments to the school regarding the incident; (F) a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of emergency safety interventions; and (G) email and phone information for the parent to contact the school to schedule the emergency safety intervention meeting. Schools may group incidents together when documenting the items in subparagraphs (A), (B) and (C)

*if the triggering issue necessitating the emergency safety interventions is the same.*

(2) 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) A copy of the standards of when emergency safety interventions can be used;~~ ~~(2) (B) a flyer on the parent's rights;~~ ~~(3) (C) 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) (D) 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 or, upon the parent's written request, by email.~~ Upon the occurrence of a second or subsequent incident, *the parent shall be provided with a full and direct 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. If a school is aware that a law enforcement officer or school resource officer has used seclusion, physical restraint or mechanical restraint on a student, the school shall notify the parent the same day using the parent's preferred method of contact. A school shall not be required to provide written documentation to a parent, as set forth in subsection (a)(1) regarding law enforcement use of an emergency safety intervention, or report to the department law enforcement use of an emergency safety intervention. For purposes of this subsection, mechanical restraint includes, but is not limited to, the use of handcuffs.~~

(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 data governance board of the department shall use the actual data value when providing statewide aggregate data for such reports.* 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 the school to the extent possible;
- (11) the information reported under subsections (c)(1) through (c)(9) aggregated by age ~~and~~, ethnicity, *gender and eligibility for free and reduced lunch* of the students on a statewide basis; and
- (12) such other information as the department deems necessary to report.

Sec. 4. K.S.A. 2015 Supp. 72-89d05 is hereby amended to read as follows: 72-89d05. (a) ~~If there is a third incident involving the use of emergency safety interventions within a school year on~~ *After each incident, a parent may request a meeting with the school to discuss and debrief the incident. A parent may request such meeting verbally, in writing or by electronic means. A school shall hold a meeting requested under this subsection within 10 school days of the parent's request. The focus of any meeting convened under this subsection shall be to discuss proactive ways to prevent the need for emergency safety interventions and to reduce incidents in the future.*

(1) ~~For 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. For a student with a section 504 plan, such student's section 504 plan team shall discuss and consider the need for an evaluation under the special education for exceptional children act, K.S.A. 72-961 et seq., and amendments thereto. For students who have an individualized education program and are placed in a private school by a parent, a meeting called~~

*under this subsection shall include the parent and the private school, who shall consider whether the parent should request an individualized education program team meeting. If the parent requests an individualized education program team meeting, the private school shall help facilitate such meeting.*

~~(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~~

(2) *For a student who does not have an individualized education program or section 504 plan, the parent and school shall 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.*

~~(e)(b)~~ *The parent shall determine whether the student shall be invited to any meeting called pursuant to this section.*

~~(d)(c)~~ *The time for calling a meeting pursuant to this section shall be extended beyond the ~~10-day~~ 10-school-day limit if the parent of the student is unable to attend within that time period.*

~~(e)(d)~~ *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. 5. K.S.A. 2015 Supp. 72-89d08 is hereby amended to read as follows: 72-89d08. The provisions of K.S.A. 2015 Supp. 72-89d01 through 72-89d08, and amendments thereto, shall expire on June 30, ~~2018~~ 2020.

Sec. 6. K.S.A. 2015 Supp. 72-89d02, 72-89d03, 72-89d04, 72-89d05 and 72-89d08 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 10, 2016.

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## CHAPTER 78

House Substitute for SENATE BILL No. 255

AN ACT concerning court fees and funds; amending K.S.A. 2015 Supp. 21-6614 and repealing the existing section; reviving and amending K.S.A. 5-517 and 20-166 and K.S.A. 2013 Supp. 20-1a04, 28-172b, 74-7325, 74-7334 and 75-7021 and repealing the revived sections; also repealing K.S.A. 5-517, as amended by section 5 of chapter 82 of the 2014 Session Laws of Kansas, and 20-166, as amended by section 8 of chapter 82 of the 2014 Session Laws of Kansas; K.S.A. 2013 Supp. 20-1a04, as amended by section 6 of chapter 82 of the 2014 Session Laws of Kansas, 20-367, 21-6614d, 28-172b, as amended by section 28 of chapter 82 of the 2014 Session Laws of Kansas, 38-2312c, 60-2001b, 74-7325, as amended by section 38 of chapter 82 of the 2014 Session Laws of Kansas, 74-7334, as amended by section 39 of chapter 82 of the 2014 Session Laws of Kansas, and 75-7021, as amended by section 42 of chapter 82 of the 2014 Session Laws of Kansas; and K.S.A. 2015 Supp. 20-1a16 and 21-6614f.

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

New Section 1. There is hereby created in the state treasury the electronic filing and management fund. All expenditures from the electronic filing and management fund shall be for purposes of creating, implementing and managing an electronic filing and centralized case management system for the state court system and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief justice of the supreme court or by a person designated by the chief justice.

Sec. 2. K.S.A. 5-517 is hereby revived and amended to read as follows: 5-517. There is hereby created the dispute resolution fund in the state treasury which shall be administered by the judicial administrator. All expenditures from the dispute resolution fund shall be for the purpose of carrying out the dispute resolution act. ~~In addition to funds generated by remittances under K.S.A. 20-367, and amendments thereto,~~ Funds acquired through grants, training fees, registration and approval fees, and other public or private sources and designated for dispute resolution, shall be remitted to the dispute resolution fund for carrying out the dispute resolution act. All expenditures from the dispute resolution fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the judicial administrator or by the judicial administrator's designee.

Sec. 3. K.S.A. 2013 Supp. 20-1a04 is hereby revived and amended to read as follows: 20-1a04. The clerk of the supreme court shall remit all moneys received by or for such clerk for docket fees, and all amounts received for other purposes than those specified in K.S.A. 20-1a01, 20-1a02 or 20-1a03, and amendments thereto, unless by order of the supreme court such clerk is directed to make other disposition thereof to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit

of the judicial branch nonjudicial salary initiative fund, a sum equal to 52.24% of the remittances of docket fees, to the judicial branch nonjudicial salary adjustment fund, a sum equal to 6.72% of the remittance of docket fees, and to the ~~state general~~ *judicial branch docket fee* fund, a sum equal to 41.04% of the remittance of docket fees.

Sec. 4. K.S.A. 20-166 is hereby revived and amended to read as follows: 20-166. (a) There is hereby created in the state treasury the access to justice fund. Money credited to the fund ~~pursuant to K.S.A. 20-362, and amendments thereto,~~ shall be used solely for the purpose of making grants for operating expenses to programs, including dispute resolution programs, which provide access to the Kansas civil justice system for persons who would otherwise be unable to gain access to civil justice. Such programs may provide legal assistance to pro se litigants, legal counsel for civil and domestic matters or other legal or dispute resolution services provided the recipient of the assistance or counsel meets financial qualifications under guidelines established by the program in accordance with grant guidelines promulgated by the supreme court of Kansas.

(b) All expenditures from the access to justice fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

(c) The chief justice may apply for, receive and accept money from any source for the purposes for which money in the access to justice fund may be expended. Upon receipt of each such remittance, the chief justice shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the access to justice fund.

(d) Grants made to programs pursuant to this section shall be based on the number of persons to be served and such other requirements as may be established by the Kansas supreme court in guidelines established and promulgated to regulate grants made under authority of this section. The guidelines may include requirements for grant applications, organizational characteristics, reporting and auditing criteria and such other standards for eligibility and accountability as are deemed advisable by the supreme court.

Sec. 5. K.S.A. 2015 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, 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, post-release 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. 2015 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 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. 2015 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 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 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. 2015 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. 2015 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. 2015 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. 2015 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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 \$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. 2015 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. 2015 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 K.S.A. 2015 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 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. 6. K.S.A. 2013 Supp. 28-172b is hereby revived and amended to read as follows: 28-172b. (a) There is hereby established in the state treasury an indigents' defense services fund.

~~(b) The clerk of the district court shall charge a fee of \$.50 in each criminal case, to be deducted from the docket fee as provided in K.S.A. 28-172a, and amendments thereto, and shall charge a fee of \$.50 in each case pursuant to the revised Kansas code for care of children or the revised Kansas juvenile justice code and each mental illness, drug abuse or alcoholism treatment action as provided by subsection (d) of K.S.A. 28-170, and amendments thereto. The clerk of the district court shall remit all such fees received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the indigents' defense services fund.~~

~~(c) Moneys in the indigents' defense services fund shall be used exclusively to provide counsel and related services for indigent defendants. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state board of indigents' defense services or a person designated by the chairperson.~~

Sec. 7. K.S.A. 2013 Supp. 74-7325 is hereby revived and amended to read as follows: 74-7325. (a) There is hereby created in the state treasury the protection from abuse fund. All moneys credited to the fund shall be used solely for the purpose of making grants to programs providing: (1) Temporary emergency shelter for adult victims of domestic abuse or sexual assault and their dependent children; (2) counseling and assistance to those victims and their children; or (3) educational services directed at

reducing the incidence of domestic abuse or sexual assault and diminishing its impact on the victims. All moneys credited to the fund pursuant to ~~K.S.A. 20-367, and amendments thereto,~~ shall be used only for ongoing operating expenses of domestic violence programs. All moneys credited to the fund pursuant to any increase in docket fees as provided by this act as described in ~~K.S.A. 20-367 and~~ 60-2001, and amendments thereto, shall not be awarded to programs until July 1, 2003, and shall be used for ongoing operating expenses of domestic violence or sexual assault programs.

(b) All expenditures from the protection from abuse fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.

(c) The attorney general may apply for, receive and accept moneys from any source for the purposes for which moneys in the protection from abuse fund may be expended. Upon receipt of any such moneys, the attorney general shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the protection from abuse fund.

(d) Grants made to programs pursuant to this section shall be based on the numbers of persons served by the program and shall be made only to the city of Wichita or to agencies which are engaged, as their primary function, in programs aimed at preventing domestic violence or sexual assault or providing residential services or facilities to family or household members who are victims of domestic violence or sexual assault. In order for programs to qualify for funding under this section, they must:

(1) Meet the requirements of section 501(c) of the internal revenue code of 1986;

(2) be registered and in good standing as a nonprofit corporation;

(3) meet normally accepted standards for nonprofit organizations;

(4) have trustees who represent the racial, ethnic and socioeconomic diversity of the county or counties served;

(5) have received 50% or more of their funds from sources other than funds distributed through the fund, which other sources may be public or private and may include contributions of goods or services, including materials, commodities, transportation, office space or other types of facilities or personal services;

(6) demonstrate ability to successfully administer programs;

(7) make available an independent certified audit of the previous year's financial records;

(8) have obtained appropriate licensing or certification, or both;

(9) serve a significant number of residents of the county or counties served;

(10) not unnecessarily duplicate services already adequately provided to county residents; and

(11) agree to comply with reporting requirements of the attorney general.

The attorney general may adopt rules and regulations establishing additional standards for eligibility and accountability for grants made pursuant to this section.

(e) As used in this section:

(1) “Domestic abuse” means abuse as defined by the protection from abuse act (, K.S.A. 60-3101 et seq., and amendments thereto).

(2) “Sexual assault” means acts defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. ~~2013~~ 2015 Supp. 21-6419 through 21-6421, and amendments thereto.

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

(1) The average daily balance of moneys in the protection from abuse fund for the preceding month; and

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

Sec. 8. K.S.A. 2013 Supp. 74-7334 is hereby revived and amended to read as follows: 74-7334. (a) There is hereby created in the state treasury the crime victims assistance fund. All moneys credited to the fund pursuant to K.S.A. 12-4117, 19-101e; *and* 19-4707 ~~and 20-367~~, and amendments thereto, shall be used solely for the purpose of making grants for on-going operating expenses of programs, including court-appointed special advocate programs, providing: (1) Temporary emergency shelter for victims of child abuse and neglect; (2) counseling and assistance to those victims; or (3) educational services directed at reducing the incidence of child abuse and neglect and diminishing its impact on the victim. The remainder of moneys credited to the fund shall be used for the purpose of supporting the operation of state agency programs which provide services to the victims of crime and making grants to existing programs or to establish and maintain new programs providing services to the victims of crime.

(b) All expenditures from the crime victims assistance fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.

(c) The attorney general may apply for, receive and accept moneys



from any source for the purposes for which moneys in the crime victims assistance fund may be expended. Upon receipt of any such moneys, the attorney general shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the crime victims assistance fund.

(d) Grants made to programs with funds derived from K.S.A. 12-4117, 19-101e; ~~and 19-4707 and 20-367~~, and amendments thereto, shall be based on the numbers of persons served by the program and shall be made only to programs aimed at preventing child abuse and neglect or providing residential services or facilities to victims of child abuse or neglect. In order for programs to qualify for funding under this section, they must:

(1) Meet the requirements of section 501(c) of the internal revenue code of 1986;

(2) be registered and in good standing as a nonprofit corporation;

(3) meet normally accepted standards for nonprofit organizations;

(4) have trustees who represent the racial, ethnic and socioeconomic diversity of the county or counties served;

(5) have received 50% or more of their funds from sources other than funds distributed through the fund, which other sources may be public or private and may include contributions of goods or services, including materials, commodities, transportation, office space or other types of facilities or personal services;

(6) demonstrate ability to successfully administer programs;

(7) make available an independent certified audit of the previous year's financial records;

(8) have obtained appropriate licensing or certification, or both;

(9) serve a significant number of residents of the county or counties served;

(10) not unnecessarily duplicate services already adequately provided to county residents; and

(11) agree to comply with reporting requirements of the attorney general.

The attorney general may adopt rules and regulations establishing additional standards for eligibility and accountability for grants made pursuant to this section.

(e) All moneys credited to the fund pursuant to K.S.A. ~~2013~~ 2015 Supp. 23-2510, and amendments thereto, shall be set aside to use as matching funds for meeting any federal requirement for the purpose of establishing child exchange and visitation centers as provided in K.S.A. 75-720, and amendments thereto. If no federal funds are made available to the state for the purpose of establishing such child exchange and visitation centers, then such moneys may be used as otherwise provided in

this section. Only those moneys credited to the fund pursuant to K.S.A. ~~2013~~ 2015 Supp. 23-2510, and amendments thereto, may be used for such matching funds. No state general fund moneys shall be used for such matching funds.

Sec. 9. K.S.A. 2013 Supp. 75-7021 is hereby revived and amended to read as follows: 75-7021. (a) There is hereby created in the state treasury the Kansas juvenile delinquency prevention trust fund. Money credited to the Kansas juvenile delinquency prevention trust fund ~~pursuant to K.S.A. 20-367, and amendments thereto, or by any other lawful means~~ shall be used solely for the purpose of making grants to further the purpose of juvenile justice reform, including rational prevention programs and programs for treatment and rehabilitation of juveniles and to further the partnership between state and local communities. Such treatment and rehabilitation programs should aim to combine accountability and sanctions with increasingly intensive treatment and rehabilitation services with an aim to provide greater public safety and provide intervention that will be uniform and consistent.

(b) All expenditures from the Kansas juvenile delinquency prevention trust fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~commissioner of juvenile justice~~ *secretary of corrections* or by a person or persons designated by the ~~commissioner~~ *secretary*.

(c) The ~~commissioner of juvenile justice~~ *secretary of corrections* may apply for, receive and accept money from any source for the purposes for which money in the Kansas juvenile delinquency prevention trust fund may be expended. Upon receipt of any such money, the ~~commissioner~~ *secretary* shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas juvenile delinquency prevention trust fund.

(d) Grants made to programs pursuant to this section shall be based on the number of persons to be served and such other requirements as may be established by the Kansas advisory group on juvenile justice and delinquency prevention in guidelines established and promulgated to regulate grants made under authority of this section. The guidelines may include requirements for grant applications, organizational characteristics, reporting and auditing criteria and such other standards for eligibility and accountability as are deemed advisable by the Kansas advisory group on juvenile justice and delinquency prevention.

(e) On or before the 10<sup>th</sup> of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas juvenile delinquency prevention trust fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas juvenile delinquency prevention trust fund for the preceding month; and

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

(f) On and after the effective date of this act, the Kansas endowment for youth trust fund created by this section prior to amendment by this act is hereby redesignated as the Kansas juvenile delinquency prevention trust fund. On and after the effective date of this act, whenever the Kansas endowment for youth trust fund created by this section prior to amendment by this act, or words of like effect, is referred to or designated by a statute, contract or other document such reference or designation shall be deemed to apply to the Kansas juvenile delinquency prevention trust fund.

Sec. 10. K.S.A. 5-517, as revived by section 2 of this act, 5-517, as amended by section 5 of chapter 82 of the 2014 Session Laws of Kansas, 20-166, as revived by section 4 of this act, and 20-166, as amended by section 8 of chapter 82 of the 2014 Session Laws of Kansas; K.S.A. 2013 Supp. 20-1a04, as revived by section 3 of this act, 20-1a04, as amended by section 6 of chapter 82 of the 2014 Session Laws of Kansas, 20-367, 21-6614d, 28-172b, as revived by section 6 of this act, 28-172b, as amended by section 28 of chapter 82 of the 2014 Session Laws of Kansas, 38-2312c, 60-2001b, 74-7325, as revived by section 7 of this act, 74-7325, as amended by section 38 of chapter 82 of the 2014 Session Laws of Kansas, 74-7334, as revived by section 8 of this act, 74-7334, as amended by section 39 of chapter 82 of the 2014 Session Laws of Kansas, 75-7021, as revived by section 9 of this act, and 75-7021, as amended by section 42 of chapter 82 of the 2014 Session Laws of Kansas; and K.S.A. 2015 Supp. 20-1a16, 21-6614 and 21-6614f 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 10, 2016.

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## CHAPTER 79

### SENATE BILL No. 224

AN ACT concerning the emergency medical services board; imposition of fines; investigation authority; issuance of subpoenas; amending K.S.A. 65-6130 and K.S.A. 2015 Supp. 65-6111 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 65-6111 is hereby amended to read as follows: 65-6111. (a) The emergency medical services board shall:

(1) Adopt any rules and regulations necessary to carry out the provisions of this act;

(2) review and approve the allocation and expenditure of moneys appropriated for emergency medical services;

(3) conduct hearings for all regulatory matters concerning ambulance services, attendants, instructor-coordinators, training officers and providers of training;

(4) submit a budget to the legislature for the operation of the board;

(5) develop a state plan for the delivery of emergency medical services;

(6) enter into contracts as may be necessary to carry out the duties and functions of the board under this act;

(7) review and approve all requests for state and federal funding involving emergency medical services projects in the state or delegate such duties to the ~~administrator~~ *executive director*;

(8) approve all training programs for attendants, instructor-coordinators and training officers and prescribe certification application fees by rules and regulations;

(9) approve methods of examination for certification of attendants, training officers and instructor-coordinators and prescribe examination fees by rules and regulations;

(10) appoint a medical advisory council of not less than six members, including ~~two~~ *one* board members, ~~one of whom~~ *member who* shall be a physician and not less than ~~four~~ *five* other physicians who are active and knowledgeable in the field of emergency medical services who are not members of the board to advise and assist the board in medical standards and practices as determined by the board. The medical advisory council shall elect a chairperson from among its membership and shall meet upon the call of the chairperson; and

(11) approve providers of training by prescribing standards and requirements by rules and regulations and withdraw or modify such approval in accordance with the Kansas administrative procedures act and the rules and regulations of the board.

(b) The emergency medical services board may grant a temporary variance from an identified rule or regulation when a literal application or enforcement of the rule or regulation would result in serious hardship and the relief granted would not result in any unreasonable risk to the public interest, safety or welfare.

(c) (1) *In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, the board, in accordance with the Kansas administrative procedure act, upon the finding of a violation of a provision of this act or the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted pursuant to such provisions:*

(A) *May impose a fine on any person granted a certificate by the board in an amount not to exceed \$500 for each violation; or*

(B) *may impose a fine on an ambulance service which holds a permit to operate in this state or on a sponsoring organization in an amount not to exceed \$2,500 for each violation.*

(2) *All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.*

(d) (1) *In connection with any investigation by the board, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic, laboratory, pharmacy, medical care facility or other public or private agency, if such document, report, record or evidence relates to professional competence, unprofessional conduct or the mental or physical ability of the person to perform activities the person is authorized to perform.*

(2) *For the purpose of all investigations and proceedings conducted by the board:*

(A) *The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to professional competence, unprofessional conduct or the mental or physical ability of a person being investigated to perform activities the person is authorized to perform. Within five days after the service of the subpoena on any person requiring the production of any evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such evidence.*

(B) *Any person appearing before the board shall have the right to be represented by counsel.*

(C) *The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:*

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

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

(3) *Disclosure or use of any such information received by the board or of any record containing such information, for any purpose other than that provided by this subsection is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any certificate or permit issued under article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. Nothing in this subsection shall be construed to make unlawful the disclosure of any such information by the board in a hearing held pursuant to this act.*

(4) *Patient records, including clinical records, medical reports, laboratory statements and reports, files, films, other reports or oral statements relating to diagnostic findings or treatment of patients, information from which a patient or a patient's family might be identified, peer review or risk management records or information received and records kept by the board as a result of the investigation procedure outlined in this subsection shall be confidential and shall not be disclosed.*

(5) *Nothing in this subsection or any other provision of law making communications between a physician and the physician's patient a privileged communication shall apply to investigations or proceedings conducted pursuant to this subsection. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this subsection.*

(e) *The emergency medical services board shall prepare an annual report on or before January 15 of each year on the number, amount and reasons for the fines imposed by the board and the number of and reasons for subpoenas issued by the board during the previous calendar year. The report shall be provided to the senate committee on federal and state affairs and the house committee on federal and state affairs.*

Sec. 2. K.S.A. 65-6130 is hereby amended to read as follows: 65-6130. (a) The board may inquire into the operation of ambulance services and the conduct of attendants, and may conduct periodic inspections of facilities, communications services, materials and equipment at any time without notice.

(b) The board may issue subpoenas *in accordance with the provisions of K.S.A. 65-6111(d), and amendments thereto*, to compel an operator holding a permit to make access to or for the production of records regarding services performed and to furnish such other information as the board may require to carry out the provisions of this act to the same extent

and subject to the same limitations as would apply if the subpoenas were issued or served in aid of a civil action in the district court. A copy of such records shall be kept in the operator's files for a period of not less than three years.

(c) The board also may require operators to submit lists of personnel employed and to notify the board of any changes in personnel or in ownership of the ambulance service.

Sec. 3. K.S.A. 65-6130 and K.S.A. 2015 Supp. 65-6111 are hereby repealed.

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

Approved May10, 2016.

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## CHAPTER 80

### SENATE BILL No. 248°

AN ACT concerning public health; relating to funding of entities that provide family planning services.

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

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

(1) "Federally qualified health center" means the same as defined in K.S.A. 2015 Supp. 65-1669, and amendments thereto; and

(2) "hospital" means the same as defined in K.S.A. 65-425, and amendments thereto.

(b) Any expenditures or grants of money by the division of public health of the Kansas department of health and environment for family planning services financed in whole or in part from federal title X moneys shall be made subject to the following priorities:

(1) To public entities, including state, county and local health departments and health clinics; and

(2) if any moneys remain, to non-public entities which are hospitals or federally qualified health centers that provide comprehensive primary and preventative care in addition to family planning services.

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

Approved May 10, 2016.

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## CHAPTER 81

Substitute for HOUSE BILL No. 2473

AN ACT concerning motor vehicles; relating to distinctive license plates; providing for the Alzheimer's disease awareness license plate; decals for certain military medals or badges; abandoned and disabled vehicles, requirements, notices, ordinances; amending K.S.A. 2015 Supp. 8-1,156 and 8-1103 and repealing the existing sections; also repealing K.S.A. 8-1107.

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

New Section 1. (a) On and after January 1, 2017, 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 Alzheimer's disease awareness 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 the Alzheimer's association or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The board of directors of the Alzheimer's association may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support the Alzheimer's association. Any motor vehicle owner or lessee annually may apply to the Alzheimer's association for use of such logo. Upon annual application and payment to either: (1) The Alzheimer's association in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each such license plate to be issued, the Alzheimer's association 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 plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the Alzheimer's association. 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 Alzheimer's disease awareness 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 provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment established by the Alzheimer's association. If such statement is not presented at the time of registration or faxed by the Alzheimer's association, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Alzheimer's association shall provide to all county treasurers a toll-free telephone number where applicants can call the Alzheimer's association for information concerning the application process or the status of such applicant's license plate application.

(h) As a condition of receiving the Alzheimer's disease awareness 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, royalty payment amount, plate number and vehicle type to the Alzheimer's association and the state treasurer.

(i) Annual 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 Alzheimer's disease awareness royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Alzheimer's disease awareness 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 Alzheimer's disease awareness royalty fund to the appropriate designee of the Alzheimer's association shall be made on a monthly basis.

Sec. 2. On and after January 1, 2017, K.S.A. 2015 Supp. 8-1,156 is hereby amended to read as follows: 8-1,156. (a) Any person issued a *distinctive military* license plate ~~under the provisions of K.S.A. 8-1,140 or 8-1,146, and amendments thereto,~~ upon submitting satisfactory proof to the director of vehicles in accordance with rules and regulations adopted by the secretary; that such person was awarded a silver star or bronze star medal by the United States government, may request a decal

for each license plate indicating the person was a recipient of a silver star or bronze star medal.

(b) ~~On and after January 1, 2006, Any person issued a distinctive military license plate under the provisions of K.S.A. 8-1,140 or 8-1,146, and amendments thereto,~~ upon submitting satisfactory proof to the director of vehicles in accordance with rules and regulations adopted by the secretary; that such person was awarded a combat medical badge, ~~army~~ combat infantry badge, *combat action badge*, navy/marine corps combat action ribbon, army distinguished service cross, navy cross, air force cross or distinguished flying cross by the United States government, may request a decal for each license plate indicating the person was a recipient of a combat medical badge, ~~army~~ combat infantry badge, *combat action badge*, navy/marine corps combat action ribbon, army distinguished service cross, navy cross, air force cross or distinguished flying cross.

(c) A fee of \$2 shall be paid for each decal issued. The director of vehicles shall design such decals. Such decals shall be affixed to the license plate in the location required by the director. Not more than two decals authorized by this section shall be affixed to any one license plate.

(d) *As used in this section, "distinctive military license plate" means any distinctive license plate for which a person is required to submit proof of military service to the director of vehicles.*

Sec. 3. K.S.A. 2015 Supp. 8-1103 is hereby amended to read as follows: 8-1103. (a) Whenever any person providing wrecker or towing service, as defined by law, while lawfully in possession of a vehicle, at the direction of a law enforcement officer or the owner or as provided by a city ordinance or county resolution, renders any service to the owner thereof by the recovery, transportation, protection, storage or safekeeping thereof, a first and prior lien on the vehicle is hereby created in favor of such person rendering such service and the lien shall amount to the full amount and value of the service rendered. The lien may be foreclosed in the manner provided in this act. If the name of the owner of the vehicle is known to the person in possession of such vehicle, then within 15 days, notice shall be given to the owner that the vehicle is being held subject to satisfaction of the lien. Any vehicle remaining in the possession of a person providing wrecker or towing service for a period of 30 days after such wrecker or towing service was provided may be sold to pay the reasonable or agreed charges for such recovery, transportation, protection, storage or safekeeping of such vehicle and personal property therein, the costs of such sale, the costs of notice to the owner of the vehicle and publication after giving the notices required by this act, unless a court order has been issued to hold such vehicle for the purpose of a criminal investigation or for use as evidence at a trial. If a court orders any vehicle to be held for the purpose of a criminal investigation or for use as evidence

at a trial, then such order shall be in writing, and the court shall assess as costs the reasonable or agreed charges for the protection, storage or safekeeping accrued while the vehicle was held pursuant to such written order. Any personal property within the vehicle need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid, or satisfactory arrangements for payment have been made, except as provided under subsection (c) or for personal medical supplies which shall be released to the owner thereof upon request. The person in possession of such vehicle and personal property shall be responsible only for the reasonable care of such property. Any personal property within the vehicle not returned to the owner shall be sold at the auction authorized by this act.

(b) At the time of providing wrecker or towing service, any person providing such wrecker or towing service shall give written notice to the driver, if available, of the vehicle being towed that a fee will be charged for storage of such vehicle. Failure to give such written notice shall invalidate any lien established for such storage fee.

(c) A city ordinance or county resolution authorizing the towing of vehicles *from private property* shall specify in such ordinance or resolution: (1) The maximum rate such wrecker or towing service may charge for such wrecker or towing service and storage fees; (2) that an owner of a vehicle towed shall have access to personal property in such vehicle for 48 hours after such vehicle has been towed and such personal property shall be released to the owner; and (3) that the wrecker or towing service shall report the location of such vehicle to local law enforcement within two hours of such tow.

Sec. 4. K.S.A. 8-1107 and K.S.A. 2015 Supp. 8-1103 are hereby repealed.

Sec. 5. On and after January 1, 2017, K.S.A. 2015 Supp. 8-1,156 is hereby repealed.

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

Approved May 11, 2016.

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## CHAPTER 82

## Substitute for SENATE BILL, No. 22

AN ACT concerning public records; relating to audio and video recordings using a body camera or a vehicle camera; legislative review of exceptions to disclosure of public records; open records act definitions of criminal investigation records, public agency and public record; disclosure of charitable gaming licensee information; amending K.S.A. 2015 Supp. 9-513c, 12-5374, 16-335, 17-1312e, 25-2309, 40-2,118, 40-2,118a, 40-4913, 45-217, 45-229, 75-5133, 75-5664 and 75-5665 and repealing the existing sections.

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

New Section 1. (a) Every audio or video recording made and retained by law enforcement using a body camera or a vehicle camera shall be considered a criminal investigation record as defined in K.S.A. 45-217, and amendments thereto. The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2021.

(b) In addition to any disclosure authorized pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto, a person described in subsection (c) may request to listen to an audio recording or to view a video recording made by a body camera or a vehicle camera. The law enforcement agency shall allow the person to listen to the requested audio recording or to view the requested video recording, and may charge a reasonable fee for such services provided by the law enforcement agency.

(c) Any of the following may make a request under subsection (b):

- (1) A person who is a subject of the recording;
- (2) a parent or legal guardian of a person under 18 years of age who is a subject of the recording;
- (3) an attorney for a person described in subsection (c)(1) or (c)(2);

and

(4) an heir at law, an executor or an administrator of a decedent, when the decedent is a subject of the recording.

(d) As used in this section:

(1) "Body camera" means a device that is worn by a law enforcement officer that electronically records audio or video of such officer's activities.

(2) "Vehicle camera" means a device that is attached to a law enforcement vehicle that electronically records audio or video of law enforcement officers' activities.

Sec. 2. K.S.A. 2015 Supp. 9-513c is hereby amended to read as follows: 9-513c. (a) Notwithstanding any other provision of law, all information or reports obtained and prepared by the commissioner in the course of licensing or examining a person engaged in money transmission business shall be confidential and may not be disclosed by the commissioner except as provided in subsection (c) or (d).

(b) (1) All confidential information shall be the property of the state

of Kansas and shall not be subject to disclosure except upon the written approval of the state bank commissioner.

(2) The provisions of this subsection shall expire on June 30, 2019, unless the legislature acts to reenact such provisions. The provisions of this paragraph shall be reviewed by the legislature prior to July 1, 2019.

(c) (1) The commissioner shall have the authority to share supervisory information, including reports of examinations, with other state or federal agencies having regulatory authority over the person's money transmission business and shall have the authority to conduct joint examinations with other regulatory agencies.

(2) (A) The requirements under any federal or state law regarding the confidentiality of any information or material provided to the nationwide multi-state licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of confidentiality protections provided by federal and state laws.

(B) The provisions of this paragraph shall expire July 1, 2018, unless the legislature acts to reenact such provisions. The provisions of this section shall be reviewed by the legislature prior to July 1, 2018.

(d) The commissioner may provide for the release of information to law enforcement agencies or prosecutorial agencies or offices who shall maintain the confidentiality of the information.

(e) The commissioner may accept a report of examination or investigation from another state or federal licensing agency, in which the accepted report is an official report of the commissioner. Acceptance of an examination or investigation report does not waive any fee required by this act.

(f) Nothing shall prohibit the commissioner from releasing to the public a list of persons licensed or their agents or from releasing aggregated financial data on such persons.

(g) The provisions of subsection (a) shall expire on July 1, ~~2016~~ 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, ~~2016~~ 2021.

Sec. 3. K.S.A. 2015 Supp. 12-5374 is hereby amended to read as follows: 12-5374. (a) Not later than 30 days after the receipt of moneys from providers pursuant to K.S.A. 2015 Supp. 12-5370 and 12-5371, and amendments thereto, and the department pursuant to K.S.A. 2015 Supp. 12-5372, and amendments thereto, the LCPA shall distribute such moneys to PSAPs based upon the following distribution method: In a county

with a population over 80,000, 82% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; in a county with a population between 65,000 and 79,999, 85% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; in a county with a population between 55,000 and 64,999, 88% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; in a county with a population between 45,000 and 54,999, 91% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; in a county with a population between 35,000 and 44,999, 94% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; in a county with a population between 25,000 and 34,999, 97% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information; and in a county with a population of less than 25,000, 100% of the money collected from service users whose place of primary use, as provided by the providers, is within the county shall be distributed to the PSAPs within the county based on place of primary use information. There shall be a minimum county distribution of \$50,000 and no county shall receive less than \$50,000 of direct distribution moneys. If there is more than one PSAP in a county then the direct distribution allocated to that county by population shall be deducted from the minimum county distribution and the difference shall be proportionately divided between the PSAPs in the county. All moneys remaining after distribution and any moneys which cannot be attributed to a specific PSAP shall be transferred to the 911 state grant fund.

(b) All fees remitted to the LCPA shall be deposited in the 911 state fund and for the purposes of this act be treated as if they are public funds, pursuant to article 14 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto.

(c) All moneys in the 911 state fund that have been collected from the prepaid wireless 911 fee shall be deposited in the 911 state grant fund unless \$2 million of such moneys have been deposited in any given year then all remaining moneys shall be distributed to the counties in an amount proportional to each county's population as a percentage share of the population of the state. For each PSAP within a county, such mon-

eys shall be distributed to each PSAP in an amount proportional to the PSAP's population as a percentage share of the population of the county. If there is no PSAP within a county, then such moneys shall be distributed to the PSAP providing service to such county. Such moneys distributed to counties and PSAPs only shall be used for the uses authorized in K.S.A. 2015 Supp. 12-5375, and amendments thereto.

(d) The LCPA shall keep accurate accounts of all receipts and disbursements of moneys from the 911 fees.

(e) Information provided by providers to the local collection point administrator or to the 911 coordinating council pursuant to this act will be treated as proprietary records which will be withheld from the public upon request of the party submitting such records.

(f) The provisions of subsection (e) shall expire on July 1, ~~2017~~ 2021, unless the legislature acts to reenact such provision. The provisions of subsection (e) shall be reviewed by the legislature prior to July 1, ~~2016~~ 2021.

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

Sec. 4. K.S.A. 2015 Supp. 16-335 is hereby amended to read as follows: 16-335. (a) Except as provided by this section, all information which the secretary of state shall gather or record in making an investigation and examination of any cemetery corporation, or the reporting by the cemetery corporation or the trustee, shall be deemed to be confidential information, and shall not be disclosed by the secretary of state, any assistant, examiner or employee thereof, except to: (1) Officers and the members of the board of directors of the cemetery corporation being audited; (2) the attorney general, when in the opinion of the secretary of state the same should be disclosed; and (3) the appropriate official for the municipality in which the cemetery resides when in the opinion of the secretary of state the same should be disclosed.

(b) Upon request, the secretary of state may disclose to any person whether a cemetery corporation maintains a cemetery merchandise trust fund under K.S.A. 16-322, and amendments thereto, and whether such funds are maintained in compliance with the provisions of such laws.

(c) The provisions of subsection (a) shall expire on July 1, ~~2016~~ 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, ~~2016~~ 2021.

(d) This section shall be part of and supplemental to article 3 of chapter 16 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 5. K.S.A. 2015 Supp. 17-1312e is hereby amended to read as follows: 17-1312e. (a) Except as provided by this section, all information which the secretary of state shall gather or record in making an investigation and examination of any cemetery corporation, or the reporting by the cemetery corporation or the trustee, shall be deemed to be confiden-

tial information, and shall not be disclosed by the secretary of state, any assistant, examiner or employee thereof, except to: (1) Officers and the members of the board of directors of the cemetery corporation being audited; (2) the attorney general, when in the opinion of the secretary of state the same should be disclosed; and (3) the appropriate official for the municipality in which the cemetery resides when in the opinion of the secretary of state the same should be disclosed.

(b) Upon request, the secretary of state may disclose to any person whether a cemetery corporation maintains a permanent maintenance fund under K.S.A. 17-1311, and amendments thereto, and whether such funds are maintained in compliance with the provisions of such laws.

(c) The provisions of subsection (a) shall expire on July 1, ~~2016~~ 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, ~~2016~~ 2021.

Sec. 6. K.S.A. 2015 Supp. 25-2309 is hereby amended to read as follows: 25-2309. (a) Any person may apply in person, by mail, through a voter registration agency, or by other delivery to a county election officer to be registered. Such application shall be made on: (1) A form approved by the secretary of state, which shall be provided by a county election officer or chief state election official upon request in person, by telephone or in writing; or (2) the national mail voter registration form issued pursuant to federal law.

Such application shall be signed by the applicant under penalty of perjury and shall contain the original signature of the applicant or the computerized, electronic or digitized transmitted signature of the applicant. A signature may be made by mark, initials, typewriter, print, stamp, symbol or any other manner if by placing the signature on the document the person intends the signature to be binding. A signature may be made by another person at the voter's direction if the signature reflects such voter's intention.

(b) Applications made under this section shall give voter eligibility requirements and such information as is necessary to prevent duplicative voter registrations and enable the relevant election officer to assess the eligibility of the applicant and to administer voter registration, including, but not limited to, the following data to be kept by the relevant election officer as provided by law:

- (1) Name;
- (2) place of residence, including specific address or location, and mailing address if the residence address is not a permissible postal address;
- (3) date of birth;
- (4) sex;



(5) the last four digits of the person's social security number or the person's full driver's license or nondriver's identification card number;

(6) telephone number, if available;

(7) naturalization data (if applicable);

(8) if applicant has previously registered or voted elsewhere, residence at time of last registration or voting;

(9) when present residence established;

(10) name under which applicant last registered or voted, if different from present name;

(11) an attestation that the applicant meets each eligibility requirement;

(12) a statement that the penalty for submission of a false voter registration application is a maximum presumptive sentence of 17 months in prison;

(13) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes;

(14) a statement that if an applicant does register to vote, the office to which a voter registration application is submitted will remain confidential and will be used only for voter registration purposes;

(15) boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States, together with the question "Are you a citizen of the United States of America?";

(16) boxes for the county election officer or chief state election official to check to indicate whether the applicant has provided with the application the information necessary to assess the eligibility of the applicant, including such applicant's United States citizenship;

(17) boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day, together with the question "Will you be 18 years of age on or before election day?";

(18) in reference to paragraphs (15) and (17) the statement "If you checked 'no' in response to either of these questions, do not complete this form.";

(19) a statement that the applicant shall be required to provide identification when voting; and

(20) political party affiliation declaration, if any. An applicant's failure to make a declaration will result in the applicant being registered as an unaffiliated voter.

If the application discloses any previous registration in any other county or state, as indicated by paragraph (8) or (10), or otherwise, the county election officer shall upon the registration of the applicant, give notice to the election official of the place of former registration, notifying such official of applicant's present residence and registration, and authorizing cancellation of such former registration. This section shall be interpreted

and applied in accordance with federal law. No eligible applicant whose qualifications have been assessed shall be denied registration.

(c) Any person who applies for registration through a voter registration agency shall be provided with, in addition to the application under subsection (b), a form which includes:

(1) The question “If you are not registered to vote where you live now, would you like to apply to register to vote here today?”;

(2) a statement that if the applicant declines to register to vote, this decision will remain confidential and be used only for voter registration purposes;

(3) a statement that if the applicant does register to vote, information regarding the office to which the application was submitted will remain confidential and be used only for voter registration purposes; and

(4) if the agency provides public assistance: (i) The statement “Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.”;

(ii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote, together with the statement “IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.”;

(iii) the statement “If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.”; and

(iv) the statement “If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Kansas Secretary of State.”

(d) If any person, in writing, declines to register to vote, the voter registration agency shall maintain the form prescribed by subsection (c).

(e) A voter registration agency shall transmit the completed registration application to the county election officer not later than five days after the date of acceptance. Upon receipt of an application for registration, the county election officer shall send, by nonforwardable mail, a notice of disposition of the application to the applicant at the postal delivery address shown on the application. If a notice of disposition is returned as undeliverable, a confirmation mailing prescribed by K.S.A. 25-2316c, and amendments thereto, shall occur.

(f) If an application is received while registration is closed, such application shall be considered to have been received on the next following day during which registration is open.

(g) A person who completes an application for voter registration shall

be considered a registered voter when the county election officer adds the applicant's name to the county voter registration list.

(h) Any registered voter whose residence address is not a permissible postal delivery address shall designate a postal address for registration records. When a county election officer has reason to believe that a voter's registration residence is not a permissible postal delivery address, the county election officer shall attempt to determine a proper mailing address for the voter.

(i) Any registered voter may request that such person's residence address be concealed from public inspection on the voter registration list and on the original voter registration application form. Such request shall be made in writing to the county election officer, and shall specify a clearly unwarranted invasion of personal privacy or a threat to the voter's safety. Upon receipt of such a request, the county election officer shall take appropriate steps to ensure that such person's residence address is not publicly disclosed. Nothing in this subsection shall be construed as requiring or authorizing the secretary of state to include on the voter registration application form a space or other provision on the form that would allow the applicant to request that such applicant's residence address be concealed from public inspection.

(j) No application for voter registration shall be made available for public inspection or copying unless the information required by ~~paragraph (5) of subsection (b)(5)~~ has been removed or otherwise rendered unreadable.

(k) If an applicant fails to answer the question prescribed in ~~paragraph (15) of subsection (b)(15)~~, the county election officer shall send the application to the applicant at the postal delivery address given on the application, by nonforwardable mail, with a notice of incompleteness. The notice shall specify a period of time during which the applicant may complete the application in accordance with K.S.A. 25-2311, and amendments thereto, and be eligible to vote in the next election.

(l) The county election officer or secretary of state's office shall accept any completed application for registration, but an applicant shall not be registered until the applicant has provided satisfactory evidence of United States citizenship. Evidence of United States citizenship as required in this section will be satisfied by presenting one of the documents listed in ~~paragraphs (1) through (13) of subsection~~ *subsections (1)(1) through (1)(13)* in person at the time of filing the application for registration or by including a photocopy of one of the following documents with a mailed registration application. After a person has submitted satisfactory evidence of citizenship, the county election officer shall indicate this information in the person's permanent voter file. Evidence of United States citizenship shall be satisfied by providing one of the following, or a legible photocopy of one of the following documents:

(1) The applicant's driver's license or nondriver's identification card

issued by the division of vehicles or the equivalent governmental agency of another state within the United States if the agency indicates on the applicant's driver's license or nondriver's identification card that the person has provided satisfactory proof of United States citizenship;

(2) the applicant's birth certificate that verifies United States citizenship to the satisfaction of the county election officer or secretary of state;

(3) pertinent pages of the applicant's United States valid or expired passport identifying the applicant and the applicant's passport number, or presentation to the county election officer of the applicant's United States passport;

(4) the applicant's United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant shall not be included in the registration rolls until the number of the certificate of naturalization is verified with the United States bureau of citizenship and immigration services by the county election officer or the secretary of state, pursuant to 8 U.S.C. § 1373(c);

(5) other documents or methods of proof of United States citizenship issued by the federal government pursuant to the immigration and nationality act of 1952, and amendments thereto;

(6) the applicant's bureau of Indian affairs card number, tribal treaty card number or tribal enrollment number;

(7) the applicant's consular report of birth abroad of a citizen of the United States of America;

(8) the applicant's certificate of citizenship issued by the United States citizenship and immigration services;

(9) the applicant's certification of report of birth issued by the United States department of state;

(10) the applicant's American Indian card, with KIC classification, issued by the United States department of homeland security;

(11) the applicant's final adoption decree showing the applicant's name and United States birthplace;

(12) the applicant's official United States military record of service showing the applicant's place of birth in the United States; or

(13) an extract from a United States hospital record of birth created at the time of the applicant's birth indicating the applicant's place of birth in the United States.

(m) If an applicant is a United States citizen but does not have any of the documentation listed in this section as satisfactory evidence of United States citizenship, such applicant may submit any evidence that such applicant believes demonstrates the applicant's United States citizenship.

(1) Any applicant seeking an assessment of evidence under this subsection may directly contact the elections division of the secretary of state by submitting a voter registration application or form as described by this

section and any supporting evidence of United States citizenship. Upon receipt of this information, the secretary of state shall notify the state election board, as established under K.S.A. 25-2203, and amendments thereto, that such application is pending.

(2) The state election board shall give the applicant an opportunity for a hearing and an opportunity to present any additional evidence to the state election board. Notice of such hearing shall be given to the applicant at least five days prior to the hearing date. An applicant shall have the opportunity to be represented by counsel at such hearing.

(3) The state election board shall assess the evidence provided by the applicant to determine whether the applicant has provided satisfactory evidence of United States citizenship. A decision of the state election board shall be determined by a majority vote of the election board.

(4) If an applicant submits an application and any supporting evidence prior to the close of registration for an election cycle, a determination by the state election board shall be issued at least five days before such election date.

(5) If the state election board finds that the evidence presented by such applicant constitutes satisfactory evidence of United States citizenship, such applicant will have met the requirements under this section to provide satisfactory evidence of United States citizenship.

(6) If the state election board finds that the evidence presented by an applicant does not constitute satisfactory evidence of United States citizenship, such applicant shall have the right to appeal such determination by the state election board by instituting an action under 8 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by the state election board shall be reversed if the applicant obtains a declaratory judgment pursuant to 8 U.S.C. § 1503, demonstrating that such applicant is a national of the United States.

(n) Any person who is registered in this state on the effective date of this amendment to this section is deemed to have provided satisfactory evidence of citizenship and shall not be required to resubmit evidence of citizenship.

(o) For purposes of this section, proof of voter registration from another state is not satisfactory evidence of United States citizenship.

(p) A registered Kansas voter who moves from one residence to another within the state of Kansas or who modifies such voter's registration records for any other reason shall not be required to submit evidence of United States citizenship.

(q) If evidence of citizenship is deemed to be unsatisfactory due to an inconsistency between the document submitted as evidence and the name or sex provided on the application for registration, such applicant may sign an affidavit:

(1) Stating the inconsistency or inconsistencies related to the name or sex, and the reason therefor; and

(2) swearing under oath that, despite the inconsistency, the applicant is the individual reflected in the document provided as evidence of citizenship. However, there shall be no inconsistency between the date of birth on the document provided as evidence of citizenship and the date of birth provided on the application for registration. If such an affidavit is submitted by the applicant, the county election officer or secretary of state shall assess the eligibility of the applicant without regard to any inconsistency stated in the affidavit.

(r) All documents submitted as evidence of citizenship shall be kept confidential by the county election officer or the secretary of state and maintained as provided by Kansas record retention laws. The provisions of this subsection shall expire on July 1, ~~2016~~ 2021, unless the legislature reviews and reenacts this provision pursuant to ~~K.S.A. 45-229, and amendments thereto,~~ prior to July 1, ~~2016~~ 2021.

(s) The secretary of state may adopt rules and regulations to in order to implement the provisions of this section.

(t) Nothing in this section shall prohibit an applicant from providing, or the secretary of state or county election officer from obtaining satisfactory evidence of United States citizenship, as described in subsection (1), at a different time or in a different manner than an application for registration is provided, as long as the applicant's eligibility can be adequately assessed by the secretary of state or county election officer as required by this section.

~~(u) The proof of citizenship requirements of this section shall not become effective until January 1, 2013.~~

Sec. 7. K.S.A. 2015 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 calculated to detect fraudulent insurance acts. Antifraud initiatives may include fraud investigators, who may be insurer employees or independent contractors 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 subsection (d)(2) unless the legislature reviews and reenacts the provisions of subsection (d)(2) ~~pursuant to K.S.A. 45-229, and amendments thereto prior to such date.~~

(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~~ 2021, unless the legislature reviews and reenacts this provision ~~pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2016~~ 2021.

(e) Except as otherwise specifically provided in K.S.A. 2015 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. 8. K.S.A. 2015 Supp. 40-2,118a is hereby amended to read as follows: 40-2,118a. From and after July 1, 2011, (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 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 calculated to detect fraudulent insurance acts. Antifraud initiatives may include: Fraud investigators, who may be insurer employees or independent contractors; or 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 (2) pursuant to K.S.A. 45-229, and amendments thereto subsection (d)(2) prior to such date.~~

(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~~ 2021, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, ~~2016~~ 2021.

(e) Except as otherwise specifically provided in K.S.A. 21-3718, 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. 9. K.S.A. 2015 Supp. 40-4913 is hereby amended to read as follows: 40-4913. (a) (1) Each insurer shall notify the commissioner whenever such insurer terminates a business relationship with an insurance agent if:

(A) The termination is for cause;

(B) such insurance agent has committed any act which would be in violation of any provision of ~~subsection (a) of~~ K.S.A. 2015 Supp. 40-4909(a), and amendments thereto; or

(C) such insurer has knowledge that such insurance agent is engaged in any activity which would be in violation of any provision of ~~subsection (a) of~~ K.S.A. 2015 Supp. 40-4909(a), and amendments thereto.

(2) The notification shall:

(A) Be made in a format prescribed by the commissioner;

(B) be submitted to the commissioner within 30 days of the date of the termination of the business relationship; and

(C) contain:

(i) The name of the insurance agent; and

(ii) the reason for the termination of the business relationship with such insurer.

(3) Upon receipt of a written request from the commissioner, each insurer shall provide to the commissioner any additional data, documents,

records or other information concerning the termination of the insurer's business relationship with such agent.

(4) Whenever an insurer discovers or obtains additional information which would have been reportable under paragraph (1) ~~of this subsection~~, the insurer shall forward such additional information to the commissioner within 30 days of its discovery.

(b) (1) Each insurer shall notify the commissioner whenever such insurer terminates a business relationship with an insurance agent for any reason not listed in subsection (a).

(2) The notification shall:

(A) Be made in a format prescribed by the commissioner;

(B) be submitted to the commissioner within 30 days of the date of the termination of the business relationship.

(3) Upon receipt of a written request from the commissioner, each insurer shall provide to the commissioner any additional data, documents, records or other information concerning the termination of the insurer's business relationship with such agent.

(4) Whenever an insurer discovers or obtains additional information which would have been reportable under paragraph (1) ~~of this subsection~~, the insurer shall forward such additional information to the commissioner within 30 days of its discovery.

(c) For the purposes of this section, the term "business relationship" shall include any appointment, employment, contract or other relationship under which such insurance agent represents the insurer.

(d) (1) No insurance entity, or any agent or employee thereof acting on behalf of such insurance entity, regulatory official, law enforcement official or the insurance regulatory official of another state who provides information to the commissioner in good faith pursuant to this section shall be subject to a civil action for damages as a result of reporting such information to the commissioner. For the purposes of this section, insurance entity shall mean any insurer, insurance agent or organization to which the commissioner belongs by virtue of the commissioner's office.

(2) Any document, material or other information in the control or possession of the department that is furnished by an insurance entity or an employee or agent thereof acting on behalf of such insurance entity, or obtained by the insurance 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.

(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 (2).

(4) The commissioner may share or exchange any documents, materials or other information, including confidential and privileged documents referred to in ~~paragraph (2)~~ of subsection (d)(2), received in the performance of the commissioner's duties under this act, with:

- (A) The NAIC;
- (B) other state, federal or international regulatory agencies; and
- (C) 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 as authorized by ~~paragraph (1)~~ of subsection (d)(1).

(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.

(e) The provisions of ~~paragraph (2)~~ of subsection (d)(2) shall expire on July 1, ~~2016~~ 2021, unless the legislature acts to reenact such provision. The provisions of ~~paragraph (2)~~ of subsection (d)(2) shall be reviewed by the legislature prior to July 1, ~~2016~~ 2021.

(f) For the purposes of this section, insurance entity shall mean any insurer, insurance agent or organization to which the commissioner belongs by virtue of the commissioner's office.

(g) Any insurance entity, including any authorized representative of such insurance entity, that fails to report to the commissioner as required under the provisions of this section or that is found by a court of competent jurisdiction to have failed to report in good faith, after notice and hearing, may have its license or certificate of authority suspended or revoked and may be fined in accordance with K.S.A. 2015 Supp. 40-4909, and amendments thereto.

Sec. 10. K.S.A. 2015 Supp. 45-217 is hereby amended to read as follows: 45-217. As used in the open records act, unless the context otherwise requires:

(a) "Business day" means any day other than a Saturday, Sunday or day designated as a holiday by the congress of the United States, by the legislature or governor of this state or by the respective political subdivision of this state.

(b) "Clearly unwarranted invasion of personal privacy" means re-

vealing information that would be highly offensive to a reasonable person, including information that may pose a risk to a person or property and is not of legitimate concern to the public.

(c) “Criminal investigation records” means: (1) *Every audio or video recording made and retained by law enforcement using a body camera or vehicle camera as defined by section 1, and amendments thereto; and* (2) records of an investigatory agency or criminal justice agency as defined by K.S.A. 22-4701, and amendments thereto, compiled in the process of preventing, detecting or investigating violations of criminal law, but does not include police blotter entries, court records, rosters of inmates of jails or other correctional or detention facilities or records pertaining to violations of any traffic law other than vehicular homicide as defined by K.S.A. 21-3405, prior to its repeal, or K.S.A. 2015 Supp. 21-5406, and amendments thereto.

(d) “Custodian” means the official custodian or any person designated by the official custodian to carry out the duties of custodian of this act.

(e) “Official custodian” means any officer or employee of a public agency who is responsible for the maintenance of public records, regardless of whether such records are in the officer’s or employee’s actual personal custody and control.

(f) (1) “Public agency” means the state or any political or taxing subdivision of the state or any office, ~~officer,~~ agency or instrumentality thereof, or any other entity receiving or expending and supported in whole or in part by the public funds appropriated by the state or by public funds of any political or taxing subdivision of the state.

(2) “Public agency” shall not include:

(A) Any entity solely by reason of payment from public funds for property, goods or services of such entity; *or* (B) any municipal judge, judge of the district court, judge of the court of appeals or justice of the supreme court; ~~or~~ (C) ~~any officer or employee of the state or political or taxing subdivision of the state if the state or political or taxing subdivision does not provide the officer or employee with an office which is open to the public at least 35 hours a week.~~

(g) (1) “Public record” means any recorded information, regardless of form ~~or~~, characteristics *or location*, which is made, maintained or kept by or is in the possession of:

(A) Any public agency ~~including, but not limited to, an agreement in settlement of litigation involving the Kansas public employees retirement system and the investment of moneys of the fund; or~~

(B) *any officer or employee of a public agency pursuant to the officer’s or employee’s official duties and which is related to the functions, activities, programs or operations of any public agency.*

(2) “Public record” shall include, *but not be limited to, an agreement*

*in settlement of litigation involving the Kansas public employees retirement system and the investment of moneys of the fund.*

(3) *Notwithstanding the provisions of subsection (g)(1), “public record” shall not include:*

(A) Records which are owned by a private person or entity and are not related to functions, activities, programs or operations funded by public funds—~~or. As used in this subparagraph, “private person” shall not include an officer or employee of a public agency who is acting pursuant to the officer’s or employee’s official duties;~~

(B) records which are made, maintained or kept by an individual who is a member of the legislature or of the governing body of any political or taxing subdivision of the state;

~~(3) “Public record” shall not include; or~~

(C) records of employers related to the employer’s individually identifiable contributions made on behalf of employees for workers compensation, social security, unemployment insurance or retirement. The provisions of this ~~subsection~~ *subparagraph* shall not apply to records of employers of lump-sum payments for contributions as described in this ~~subsection~~ *subparagraph* paid for any group, division or section of an agency.

(h) “Undercover agent” means an employee of a public agency responsible for criminal law enforcement who is engaged in the detection or investigation of violations of criminal law in a capacity where such employee’s identity or employment by the public agency is secret.

Sec. 11. K.S.A. 2015 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 override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

(A) Allows the effective and efficient administration of a governmental program, which administration would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or

(C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exception of the type specified in paragraph (2)(B) or (2)(C) of this subsection (h) would occur if the records were made public.

(i) (1) Exceptions contained in the following statutes as continued in existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas and which have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-2227, 17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405, 34-251, 38-2212, 39-709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, 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) 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: 17-2036, 40-5301, 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~~ 2015 and which have been reviewed during the 2016 legislative session are hereby continued in existence until July 1, ~~2016~~ 2021, at which time such exceptions shall expire: ~~12-5358~~, 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-2326, 40-955, 44-1132, 45-221(a)(10)(F) and (a)(50), 60-3333, 65-4a05, 65-445(g), 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, 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. 12. K.S.A. 2015 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 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 con-

servation 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 location 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 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 K.S.A. 22-4701(c), and amendments thereto, or to any law enforcement officer, as defined in K.S.A. 2015 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. 2015 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. 2015 Supp. 12-5363, and amendments thereto, for purposes of verifying seller compliance with collection and remittance of such fees;

(18) release or publish charitable gaming information obtained in ~~bingo charitable gaming~~ licensee and registration applications and renewals in accordance with the ~~bingo act, K.S.A. 79-4701~~ *Kansas charitable gaming act, K.S.A. 2015 Supp. 75-5171 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. 13. K.S.A. 2015 Supp. 75-5664 is hereby amended to read as follows: 75-5664. (a) There is hereby established an advisory committee on trauma. The advisory committee on trauma shall be advisory to the secretary of health and environment and shall be within the division of public health of the department of health and environment as a part thereof.

(b) On July 1, 2001, the advisory committee on trauma in existence immediately prior to July 1, 2001, is hereby abolished and a new advisory committee on trauma is created in accordance with this section. The terms of all members of the advisory committee on trauma in existence prior to July 1, 2001, are hereby terminated. On and after July 1, 2001, the advisory committee on trauma shall be composed of 24 members representing both rural and urban areas of the state appointed as follows:

(1) Two members shall be persons licensed to practice medicine and surgery appointed by the governor. At least 30 days prior to the expiration of terms described in this section, for each member to be appointed under this section, the Kansas medical society shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(2) One member shall be licensed to practice osteopathic medicine appointed by the governor. At least 30 days prior to the expiration of the term of the member appointed under this section, the Kansas association of osteopathic medicine shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(3) Three members shall be representatives of hospitals appointed by the governor. At least 30 days before the expiration of terms described

in this section, for each member to be appointed under this section, the Kansas hospital association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(4) Two members shall be licensed professional nurses specializing in trauma care or emergency nursing appointed by the governor. At least 30 days before the expiration of terms described in this section, for each member to be appointed under this section, the Kansas state nurses association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(5) Two members shall be attendants as defined in K.S.A. 65-6112, and amendments thereto, who are on the roster of an ambulance service permitted by the board of emergency medical services. At least 30 days prior to the expiration of one of these positions, the Kansas emergency medical services association shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board. For the other member appointed under this section, at least 30 days prior to the expiration of the term of such member, the Kansas emergency medical technician association shall submit a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(6) Two members shall be administrators of ambulance services, one rural and one urban, appointed by the governor. At least 30 days prior to the expiration of the terms of such members, the Kansas emergency medical services association and Kansas emergency medical technician association in consultation shall submit to the governor a list of four persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board under this paragraph.

(7) Six members shall be representatives of regional trauma councils, one per council, appointed by the governor. At least 30 days prior to the expiration of one of these positions, the relevant regional trauma council shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making these appointments to the board.

(8) The secretary of health and environment or the secretary's designee of an appropriately qualified person shall be an ex officio representative of the department of health and environment.

(9) The chairperson of the board of emergency medical services or the chairperson's designee shall be an ex officio member.

(10) Four legislators selected as follows shall be members: The chairperson and ranking minority member or their designees of the committee

on health and human services of the house of representatives, and the chairperson and ranking minority member or their designees from the committee on public health and welfare of the senate shall be members.

(c) All members shall be residents of the state of Kansas. Particular attention shall be given so that rural and urban interests and geography are balanced in representation. Organizations that submit lists of names to be considered for appointment by the governor under this section shall insure that names of people who reside in both rural and urban areas of the state are among those submitted. At least one person from each congressional district shall be among the members. Of the members appointed under ~~paragraphs (1) through (7) of subsection (b)~~, *(1) through (b)(7)*: Six shall be appointed to initial terms of two years; six shall be appointed to initial terms of three years; and six shall be appointed to initial terms of four years. Thereafter members shall serve terms of four years and until a successor is appointed and qualified. In the case of a vacancy in the membership of the advisory committee, the vacancy shall be filled for the unexpired term in like manner as that provided in subsection (b).

(d) The advisory committee shall meet quarterly and at the call of the chairperson or at the request of a majority of the members. At the first meeting of the advisory committee after July 1 each year, the members shall elect a chairperson and vice-chairperson who shall serve for terms of one year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. ~~The chairperson and vice-chairperson serving on the effective date of this act shall be among the members appointed to the advisory committee under subsection (b) and shall continue to serve as chairperson and vice-chairperson of the advisory committee until the first meeting of the advisory committee after July 1, 2002.~~

(e) The advisory committee shall be advisory to the secretary of health and environment on all matters relating to the implementation and administration of this act.

(f) (1) Any meeting of the advisory committee or any part of a meeting of the advisory committee during which a review of incidents of trauma injury or trauma care takes place shall be conducted in closed session. The advisory committee and officers thereof when acting in their official capacity in considering incidents of trauma injury or trauma care shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.

(2) The advisory committee or an officer thereof may advise, report to and discuss activities, information and findings of the committee which relate to incidents of trauma injury or trauma care with the secretary of health and environment as provided in subsections (a) and (e) without waiver of the privilege provided by this subsection ~~(f)~~ and K.S.A. 65-4915, and amendments thereto, and the records and findings of such committee

or officer which are privileged under this subsection ~~(f)~~ and K.S.A. 65-4915, and amendments thereto, shall remain privileged as provided by this subsection ~~(f)~~ and K.S.A. 65-4915, and amendments thereto, prior to July 1, ~~2016~~ 2021.

(3) The provisions of this subsection ~~(f)~~ shall expire on July 1, ~~2016~~ 2021, unless the legislature reviews and reenacts this provision ~~pursuant to K.S.A. 45-229, and amendments thereto prior to July 1, 2021.~~

(g) Members of the advisory committee attending meetings of the advisory committee or attending a subcommittee of the advisory committee or other authorized meeting of the advisory committee shall not be paid compensation but shall be paid amounts provided in ~~subsection (e)~~ of K.S.A. 75-3223(e), and amendments thereto.

Sec. 14. K.S.A. 2015 Supp. 75-5665 is hereby amended to read as follows: 75-5665. (a) The secretary of health and environment, after consultation with and consideration of recommendations from the advisory committee, shall:

(1) Develop rules and regulations necessary to carry out the provisions of this act, including fixing, charging and collecting fees from trauma facilities to recover all or part of the expenses incurred in the designation of trauma facilities pursuant to subsection (f) ~~of this section;~~

(2) develop a statewide trauma system plan including the establishment of regional trauma councils, using the 2001 Kansas EMS-Trauma Systems Plan study as a guide and not more restrictive than state law. The secretary shall ensure that each council consist of at least six members. Members of the councils shall consist of persons chosen for their expertise in and commitment to emergency medical and trauma services. Such members shall be chosen from the region and include prehospital personnel, physicians, nurses and hospital personnel involved with the emergency medical and trauma services and a representative of a county health department. The plan should:

(A) Maximize local and regional control over decisions relating to trauma care;

(B) minimize bureaucracy;

(C) adequately protect the confidentiality of proprietary and personal health information;

(D) promote cost effectiveness;

(E) encourage participation by groups affected by the system;

(F) emphasize medical direction and involvement at all levels of the system;

(G) rely on accurate data as the basis for system planning and development; and

(H) facilitate education of health care providers in trauma care;

(3) plan, develop and administer a trauma registry to collect and analyze data on incidence, severity and causes of trauma and other pertinent

information which may be used to support the secretary's decision-making and identify needs for improved trauma care;

(4) provide all technical assistance to the regional councils as necessary to implement the provisions of this act;

(5) collect data elements for the trauma registry that are consistent with the recommendations of the American college of surgeons committee on trauma and centers for disease control;

(6) designate trauma facilities by level of trauma care capabilities after considering the American college of surgeons committee on trauma standards and other states' standards except that trauma level designations shall not be based on criteria that place practice limitations on registered nurse anesthetists which are not required by state law;

(7) develop a phased-in implementation schedule for each component of the trauma system, including the trauma registry, which considers the additional burden placed on the emergency medical and trauma providers;

(8) develop standard reports to be utilized by the regional trauma councils and those who report data to the registry in performing their functions;

(9) assess the fiscal impact on all components of the trauma system, and thereafter recommend other funding sources for the trauma system and trauma registry;

(10) prepare and submit an annual budget in accordance with the provisions of this act. Such budget shall include costs for the provision of technical assistance to the regional trauma councils and the cost of developing and maintaining the trauma registry and analyzing and reporting on the data collected; and

(11) enter into contracts as deemed necessary to carry out the duties and functions of the secretary under this act.

(b) (1) Any meeting of a regional trauma council or any part of a meeting of such a council during which a review of incidents of trauma injury or trauma care takes place shall be conducted in closed session. A regional trauma council and the officers thereof when acting in their official capacity in considering incidents of trauma injury or trauma care shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.

(2) A regional trauma council or an officer thereof may advise, report to and discuss activities, information and findings of the council which relate to incidents of trauma injury or trauma care with the secretary of health and environment and make reports as provided in this section without waiver of the privilege provided by this subsection~~(b)~~ and K.S.A. 65-4915, and amendments thereto, and the records and findings of such council or officer which are privileged under this subsection~~(b)~~ and K.S.A. 65-4915, and amendments thereto, shall remain privileged as



provided by this subsection ~~(b)~~ and K.S.A. 65-4915, and amendments thereto.

(3) The provisions of this subsection ~~(b)~~ shall expire on July 1, ~~2016~~ 2021, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, ~~2016~~ 2021.

Sec. 15. K.S.A. 2015 Supp. 9-513c, 12-5374, 16-335, 17-1312e, 25-2309, 40-2,118, 40-2,118a, 40-4913, 45-217, 45-229, 75-5133, 75-5664 and 75-5665 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 11, 2016.



CHAPTER 83

Substitute for SENATE BILL No. 323

AN ACT concerning education; relating to capital improvement state aid; creating a language assessment program for children who are deaf or hard of hearing; creating the Jason Flatt act; requiring suicide prevention training for school district personnel; amending K.S.A. 2015 Supp. 75-2319 and repealing the existing section.

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

New Section 1. (a) This section shall be known and may be cited as the Jason Flatt act.

(b) The board of education of each school district shall provide suicide awareness and prevention programming to all school staff and shall notify the parents or legal guardians of students enrolled in such school district that the training materials provided under such programming are available to such parents or legal guardians. Such programming shall include, at a minimum:

(1) At least one hour of training each calendar year based on programs approved by the state board of education. Such training may be satisfied through independent self-review of suicide prevention training materials; and

(2) a building crisis plan developed for each school building. Such plan shall include:

- (A) Steps for recognizing suicide ideation;
- (B) appropriate methods of interventions; and
- (C) a crisis recovery plan.

(c) No cause of action may be brought for any loss or damage caused by any act or omission resulting from the implementation of the provisions of this section, or resulting from any training, or lack of training, required by this section. Nothing in this section shall be construed to impose any specific duty of care.

(d) On or before January 1, 2017, the state board of education shall adopt rules and regulations necessary to implement the provisions of this section.

New Sec. 2. (a) There is hereby established a language assessment program to be coordinated by the Kansas commission for the deaf and hard of hearing. The purpose of the program is to assess, monitor and track the language developmental milestones of children who are deaf or hard of hearing from birth through the age of eight. The recognized languages used in the education of children who are deaf and hard of hearing are English and American sign language. The scope of the program includes children who may use one or more communication modes in American sign language, English literacy and, if applicable, spoken English and visual supplements.

(b) On and after July 1, 2018, an annual language assessment shall be given to each child who is deaf or hard of hearing and who is less than nine years of age. Language assessments shall be provided either through early intervention services administered by the Kansas department of health and environment, or if the child is three years of age or older, through the school district in which the child is enrolled. Such language assessments shall be provided in accordance with the provisions of this section and any recommendations adopted pursuant to this section.

(c) There is hereby established within KCDHH an advisory committee on the language assessment program. The advisory committee shall consist of 16 members as follows:

(1) Nine members of the advisory committee shall be appointed by the governor as follows:

(A) One member shall be a credentialed teacher of the deaf who uses both ASL and English during instruction;

(B) one member shall be a credentialed teacher of the deaf who uses spoken English with or without visual supplements during instruction;

(C) one member shall be a credentialed teacher of the deaf who has expertise in curriculum development and instruction of ASL and English;

(D) one member shall be a credentialed teacher of the deaf who has expertise in assessing language development in both ASL and English;

(E) one member shall be a speech language pathologist who has experience working with children from birth through the age of eight;

(F) one member shall be a professional with a linguistic background who conducts research on language outcomes of children who are deaf or hard of hearing and use ASL and English;

(G) one member shall be a parent of a child who is deaf or hard of hearing and who uses both ASL and English;

(H) one member shall be a parent of a child who is deaf or hard of hearing and who uses spoken English with or without visual supplements; and

(I) one member who is knowledgeable about teaching and using both ASL and English in the education of children who are deaf and hard of hearing; and

(2) seven members of the advisory committee shall be ex officio members as follows:

(A) One member shall be the executive director of KCDHH;

(B) one member shall be the coordinator of the sound start program, or such coordinator's designee;

(C) one member shall be the KCDHH commission member representing the state school for the deaf, or such commission member's designee;

(D) one member shall be the KCDHH commission member representing the department of health and environment, or such commission member's designee;

(E) one member shall be the KCDHH commission member representing the state board of education, or such commission member's designee;

(F) one member shall be the coordinator of the early intervention program administered by the department of health and environment, or such coordinator's designee; and

(G) one member shall be the coordinator of the early education program administered by the department of education, or such coordinator's designee.

(d) The executive director of KCDHH shall call an organizational meeting of the advisory committee on or before August 1, 2016. At such organizational meeting, the members shall elect a chairperson and vice-chairperson from the membership of the advisory committee. The advisory committee may meet at any time and at any place within the state on the call of the chairperson. A quorum of the advisory committee shall be nine members. All actions of the advisory committee shall be by motion adopted by a majority of those members present when there is a quorum. Any vacancy on the committee shall be filled in accordance with subsection (c).

(e) On or before January 31, 2018, the advisory committee shall develop specific action plans and make recommendations necessary to fully implement the language assessment program. In carrying out its charge under this section, the committee shall:

(1) Collaborate with the coordinating council on early childhood developmental services and the Kansas state special education advisory council;

(2) solicit input from professionals trained in the language development and education of children who are deaf or hard of hearing on the selection of specific language developmental milestones;

(3) review, recommend and monitor the use of existing and available language assessments for children who are deaf or hard of hearing;

(4) identify and recommend qualifications of language professionals with knowledge of the use of evidence-based, best practices in English and American sign language who can be available to advocate at IFSP or IEP team meetings;

(5) identify qualifications of language assessment evaluators with knowledge on the use of evidence-based, best practices with children who are deaf or hard of hearing and the resources for locating such evaluators; and

(6) identify procedures and methods for communicating information on language acquisition, assessment results, milestones, assessment tools used and progress of the child to the parent or legal guardian of such child, teachers and other professionals involved in the early intervention and education of such child.

(f) The specific action plans and recommendations developed by the advisory committee shall include, but are not limited to, the following:

(1) Language assessments that include data collection and timely tracking of the child's development so as to provide information about the child's receptive and expressive language compared to such child's linguistically age-appropriate peers who are not deaf or hard of hearing;

(2) language assessments conducted in accordance with standardized norms and timelines in order to monitor and track language developmental milestones in receptive, expressive, social and pragmatic language acquisition and developmental stages to show progress in American sign language literacy, English literacy, or both, for all children who are deaf or hard of hearing from birth through the age of eight;

(3) language assessments delivered in the child's mode of communication and which have been validated for the specific purposes for which each assessment is used, and appropriately normed;

(4) language assessments administered by individuals who are proficient in ASL for ASL assessments and English for English assessments;

(5) use of assessment results, in addition to the assessment required by federal law, for guidance on the language developmental discussions by IFSP and IEP teams when assessing the child's progress in language development;

(6) reporting of assessment results to the parents or legal guardian of the child and the applicable agency;

(7) reporting of assessment results on an aggregated basis to the committees on education of the house of representatives and the senate; and

(8) reporting of assessment results to the members of the child's IFSP or IEP team, which may be used, in addition to the assessment required by federal law, by the child's IFSP or IEP team, as applicable, to track the child's progress, and to establish or modify the IFSP or IEP.

(g) The state department of education, the department of health and environment and the state school for the deaf shall enter into interagency agreements with KCDHH to share statewide aggregate data.

(h) On or before January 31, 2019, and each January 31 thereafter, KCDHH shall publish a report that is specific to language and literacy developmental milestones of children who are deaf or hard of hearing for each age from birth through the age of eight, including those who are deaf or hard of hearing and have other disabilities, relative to such children's peers who are not deaf or hard of hearing. Such report shall be based on existing data reported in compliance with the federally required state performance plan on pupils with disabilities. KCDHH shall publish the report on its website.

(i) The advisory committee shall cease to exist from and after July 1, 2018.

(j) As used in this section:

(1) "ASL" means American sign language.

(2) "English" means English literacy, spoken English, signing exact English and morphemic system of signs, CASE, cued speech and any other visual supplements.

(3) "IEP" means individualized education program.

(4) "IFSP" means individualized family service plan.

(5) "KCDHH" means the Kansas commission for the deaf and hard of hearing.

(6) "Language" means a complex and dynamic system of conventional symbols that is used in various modes for thought and communication.

(7) "Literacy" includes the developmental stages of literacy, including pre-emergent, emergent and novice levels, as necessary beginning stages to master a language.

Sec. 3. K.S.A. 2015 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.

(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 subsection (b)(1);

(B) determine the median AVPP of all school districts;

(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;

(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. 2015 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 25%;

(E) determine the amount of payments that a school district is obligated to make from its bond and interest fund attributable to general obligation bonds approved for issuance at an election held prior to July 1, 2015; and

(F) multiply the amount determined under subsection (b)(1)(E) by the applicable state aid percentage factor.

(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. 2015 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 general obligation bonds approved for issuance at an election held on or after July 1, 2015, ~~but prior to July 1, 2017~~; and

(E) multiply the amount determined under subsection (b)(2)(D) by the applicable state aid percentage factor.

(3) *For general obligation bonds approved for issuance at an election held on or before June 30, 2016*, the sum of the amount determined under subsection (b)(1)(F) and the amount determined under subsection (b)(2)(E) is the amount of payment the school district is entitled to receive from the school district capital improvements fund in the school year.

(4) *For general obligation bonds approved for issuance at an election held on or after July 1, 2016*, the amount determined under subsection (b)(2)(E) is the amount of payment the school district shall receive from the school district capital improvements fund in the school year, except the total amount of payments school districts receive from the school district capital improvements fund in the school year for such bonds shall not exceed the six-year average amount of capital improvement state aid as determined by the state board of education.

(A) *The state board of education shall determine the six-year average amount of capital improvement state aid by calculating the average of the total amount of moneys expended per year from the school district capital improvements fund in the immediately preceding six fiscal years, not to include the current fiscal year.*

(B) (i) *Subject to clause (ii), the state board of education shall prioritize the allocations to school districts from the school district capital improvements fund in accordance with the priorities set forth as follows in order of highest priority to lowest priority:*

(a) *Safety of the current facility and disability access to such facility as demonstrated by a state fire marshal report, an inspection under the Americans with disabilities act, 42 U.S.C. § 12101 et seq., or other similar evaluation;*

(b) *enrollment growth and imminent overcrowding as demonstrated by successive increases in enrollment of the school district in the immediately preceding three school years;*

(c) *impact on the delivery of educational services as demonstrated by restrictive inflexible design or limitations on installation of technology; and*

(d) *energy usage and other operational inefficiencies as demonstrated by a district-wide energy usage analysis, district-wide architectural analysis or other similar evaluation.*

(ii) *In allocating capital improvement state aid, the state board shall give higher priority to those school districts with a lower AVPP compared*

*to the other school districts that are to receive capital improvement state aid under this section.*

*(C) On and after July 1, 2016, the state board of education shall approve the amount of state aid payments a school district shall receive from the school district capital improvements fund pursuant to subsection (b)(5) prior to an election to approve the issuance of general obligation bonds.*

*(5) The sum of the amounts determined under subsection (b)(3) and the amount determined or allocated to the district by the state board of education pursuant to subsection (b)(4), is the amount of payment 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) On or before the first day of the legislative session in 2017, and each year thereafter, the state board of education shall prepare and submit a report to the legislature that includes information on school district elections held on or after July 1, 2016, to approve the issuance of general obligation bonds and the amount of payments school districts were approved to receive from the school district capital improvements fund pursuant to subsection (b)(4)(C).*



Sec. 4. K.S.A. 2015 Supp. 75-2319 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 11, 2016.

Published in the *Kansas Register* May 19, 2016.

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## CHAPTER 84

### House Substitute for SENATE BILL No. 149

AN ACT concerning taxation; relating to income tax returns and instructions, use tax remittance, checkoff for schools; credits, angel investment credit; community improvement district sales tax administration fund; electronic cigarettes; sales tax exemptions, Gove county healthcare endowment foundation, inc., certain sales of tangible personal property purchased to rebuild or repair certain fences; amending K.S.A. 79-3606d and K.S.A. 2015 Supp. 12-6a31, 74-8133, 79-3399 and 79-3606 and repealing the existing sections.

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

New Section 1. (a) For the tax years commencing after December 31, 2016, each Kansas state individual income tax return form shall contain a designation as follows:

Local School District Contribution Program. Check if you wish to donate, in addition to your tax liability, or designate from your refund, \_\_\_\$10, \_\_\_\$25, \_\_\_\$50, \$\_\_\_, or \_\_\_ entire refund to unified school district No. \_\_\_\_\_.

(b) The director of taxation of the department of revenue shall determine annually the total amount designated for contribution to the local school district contribution program pursuant to subsection (a) and shall report such amount to the state treasurer who shall credit the entire amount thereof to the local school district contribution program checkoff fund which is hereby established in the state treasury. All moneys deposited in such fund shall be used for the purpose of financing education in the school district of the taxpayer's choice. In the case where donations are made pursuant to subsection (a), the director shall remit the entire amount thereof to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of such fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state board of education. Such moneys shall be treated as a donation by the school district in accordance with K.S.A. 72-8210, and amendments thereto, and shall be reported as gifts for the purposes of the Kansas uniform financial and reporting act.

New Sec. 2. (a) In order to raise awareness of liabilities of use taxes levied in article 37 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, for purchases of tangible personal property made outside this state to be consumed within this state, and to increase compliance with such provisions of law, the director of taxation is hereby directed to include a line for the remittance of sales tax on out-of-state and internet purchases where the tax was not paid on individual tax returns for tax years beginning on or after July 1, 2016.

(b) The director shall include the following information in the income tax form instructions:

(1) An explanation of an individual's obligation to pay use tax on items purchased from mail order, internet or other sellers that do not collect state and local sales and use taxes on the items; and

(2) a method to help an individual determine the amount of use tax the individual owes. The method may include a table that gives the average amounts of use tax payable by taxpayers in various income ranges.

(c) No penalties or interest shall be applied with respect to any taxes remitted pursuant to the provisions of this section.

Sec. 3. K.S.A. 2015 Supp. 74-8133 is hereby amended to read as follows: 74-8133. (a) A credit against the tax imposed by article 32 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, on the Kansas taxable income of an angel investor and against the tax imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for a cash investment in the qualified securities of a qualified Kansas business. The credit shall be in a total amount equal to 50% of such investors' cash investment in any qualified Kansas business, subject to the limitations set forth in subsection (b). This tax credit may be used in its entirety in the taxable year in which the cash investment is made except that no tax credit shall be allowed in a year prior to January 1, 2005. If the amount by which that portion of the credit allowed by this section exceeds the investors' liability in any one taxable year, beginning in the year 2005, the remaining portion of the credit may be carried forward until the total amount of the credit is used. If the investor is a permitted entity investor, the credit provided by this section shall be claimed by the owners of the permitted entity investor in proportion to their ownership share of the permitted entity investor.

(b) The secretary of revenue shall not allow tax credits of more than \$50,000 for a single Kansas business or a total of \$250,000 in tax credits for a single year per investor who is a natural person or owner of a permitted entity investor. No tax credits authorized by this act shall be allowed for any cash investments in qualified securities for any year after the year ~~2016~~ 2021. The total amount of tax credits which may be allowed under this section shall not exceed \$4,000,000 during the tax year 2007 and \$6,000,000 for tax year 2008 and each tax year thereafter, except that

for tax year 2011, the total amount of tax credits which may be allowed under this section shall not exceed \$5,000,000. The balance of unissued tax credits may be carried over for issuance in future years until ~~2016~~ 2021.

(c) A cash investment in a qualified security shall be deemed to have been made on the date of acquisition of the qualified security, as such date is determined in accordance with the provisions of the internal revenue code.

(d) No investor shall claim a credit under this section for cash investments in Kansas venture capital, inc. No Kansas venture capital company shall qualify for the tax credit for an investment in a fund created by articles 81, 82, 83 or 84 of chapter 74 of the Kansas Statutes Annotated, *and amendments thereto*.

(e) Any investor who has not owed any Kansas income tax under the provisions of article 32, chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, for the immediate past three taxable years, who does not reasonably believe that it will owe any such tax for the current taxable year and who makes a cash investment in a qualified security of a qualified Kansas business shall be deemed to acquire an interest in the nature of a transferable credit limited to an amount equal to 50% of this cash investment. This interest may be transferred to any natural person of net worth, as defined in 17 C.F.R. § 230.501(a) as in effect on the effective date of this act whether or not such person is then an investor and be claimed by the transferee as a credit against the transferee's Kansas income tax liability beginning in the year provided in subsection (a). No person shall be entitled to a refund for the interest created under this section. Only the full credit for any one investment may be transferred and this interest may only be transferred one time. A credit acquired by transfer shall be subject to the limitations prescribed in this section. Documentation of any credit acquired by transfer shall be provided by the investor in the manner required by the director of taxation.

(f) The reasonable costs of the administration of this act, the review of applications for certification as qualified Kansas businesses and the issuance of tax credits authorized by this act shall be reimbursed through fees paid by the qualified Kansas businesses and the investors or the transferees of investors, according to a reasonable fee schedule adopted by the secretary by rules and regulations in accordance with the rules and regulations filing act.

Sec. 4. K.S.A. 2015 Supp. 12-6a31 is hereby amended to read as follows: 12-6a31. (a) In addition to and notwithstanding any limitations on the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197, and amendments thereto, any municipality may impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services taxable pur-

suant to the provisions of the Kansas retailers' sales tax act, and amendments thereto, within a community improvement district for purposes of financing a project in such district in any increment of 0.10% or 0.25% not to exceed 2% and pledging the revenue received therefrom to pay the bonds issued for the project or to reimburse the cost of the project pursuant to pay-as-you-go financing. In the event bonds are issued to finance a project or refunding bonds issued therefore, the community improvement district sales tax imposed pursuant to this section shall expire no later than the date such bonds shall mature. In the event pay-as-you-go financing is utilized, the community improvement district sales tax shall expire 22 years from the date the state director of taxation begins collecting such tax or when the project bonds or pay-as-you-go costs have been paid. Except as otherwise provided by the provisions of K.S.A. 2015 Supp. 12-6a27 et seq., and amendments thereto, the tax authorized by this section shall be administered, collected and subject to the provisions of K.S.A. 12-187 through 12-197, inclusive, and amendments thereto.

(b) Upon receipt of a certified copy of the resolution or ordinance authorizing the levy of the community improvement district sales tax pursuant to this section, the state director of taxation shall cause such tax to be collected in the district at the same time and in the same manner provided for the collection of the state retailers' sales tax. All of the taxes collected under the provisions of this act shall be remitted by the secretary of revenue to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, and the state treasurer shall credit 2% of all taxes so collected to the community improvement district sales tax administration fund, which fund is hereby established in the state treasury, to defray the expenses of the department of revenue in administration and enforcement of the collection thereof. The aggregate amount of moneys credited to the community improvement district sales tax administration fund shall not exceed ~~\$60,000~~ \$200,000 in any state fiscal year. The remainder of such taxes shall be credited to the community improvement district sales tax fund, which fund is hereby established in the state treasury. All moneys in the community improvement district sales tax fund shall be remitted at least quarterly by the state treasurer, on instruction from the secretary of revenue, to the treasurers of those municipalities which are qualified to receive disbursements from such fund for the amount collected within such municipality. Any refund due on any community improvement district sales tax collected pursuant to this section shall be paid out of the community improvement district sales tax refund fund which is hereby established in the state treasury and reimbursed by the director of taxation from collections of the community improvement district sales tax authorized by this section. Community improvement district sales tax received by a municipality pursuant to this section shall be deposited in

the community improvement district sales tax fund created pursuant to K.S.A. 2015 Supp. 12-6a34, and amendments thereto.

(c) Notwithstanding any other provisions of law to the contrary, copies of all retailers' sales and use tax returns filed with the secretary of revenue in connection with a district for which sales or use tax revenues, or both, are pledged or otherwise intended to be used in whole or in part for the payment of bonds issued to finance costs of a project, shall be provided by the secretary of revenue to the bond trustee, escrow agent or paying agent for such bonds upon a written request of the municipality within 15 days of receipt by the secretary of revenue. The bond trustee, escrow agent or paying agent shall keep such retailers' sales and use tax returns and the information contained therein confidential, but may use such information for purposes of allocating and depositing such sales and use tax revenues in connection with the bonds used to finance costs of a project. Except as otherwise provided herein, the sales and use tax returns received by the bond trustee, escrow agent or paying agent shall be subject to the provisions of K.S.A. 79-3614, and amendments thereto.

Sec. 5. K.S.A. 2015 Supp. 79-3399 is hereby amended to read as follows: 79-3399. (a) On and after ~~July 1, 2016~~ *January 1, 2017*, a tax is hereby imposed upon the privilege of selling or dealing in electronic cigarettes in this state by any person engaged in business as a distributor thereof, at the rate of \$.20 per milliliter of consumable material for electronic cigarettes and a proportionate tax at the like rate on all fractional parts thereof. For electronic cigarettes in the possession of retail dealers for which tax has not been paid, tax shall be imposed under this subsection at the earliest time the retail dealer: (1) Brings or causes to be brought into this state from without the state electronic cigarettes for sale; (2) makes, manufactures or fabricates electronic cigarettes in this state for sale in this state; or (3) sells electronic cigarettes to consumers within this state.

(b) The secretary of revenue shall adopt rules and regulations to implement the provisions of this section.

Sec. 6. K.S.A. 2015 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes and electronic cigarettes as defined by K.S.A. 79-3301, and amendments thereto, including consumable material for such electronic cigarettes, cereal malt beverages and malt products as defined by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed

pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry services taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross receipts from regulated sports contests taxed pursuant to the Kansas professional regulated sports act, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business; or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, a public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school, educational institution or a state correctional institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is paid from funds of such political subdivision or district and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418, and amendments

thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or department of corrections concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or the contractor contracting with the department of corrections for a correctional institution con-

cerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft



sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft for use outside of the United States and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of K.S.A. 79-3603(o), and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, “drug” means a compound, substance or preparation and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages, recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, and supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or intended to affect the structure or any function of the body, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of drugs used in the performance or induction of an abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of oxygen delivery equipment, kidney dialysis equipment, enteral feeding systems, prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by K.S.A. 74-5807(c), and amendments thereto, and repair and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) “Mobility enhancing equipment” means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) “prosthetic device” means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;

(s) except as provided in K.S.A. 2015 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services pur-

chased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq., and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 et seq., 19-3522 et seq., or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term “farm machinery and equipment or aquaculture machinery and equipment” shall include a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments thereto, and is equipped with a bed or cargo box for hauling materials, and shall also include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto. “Farm machinery and equipment” includes precision farming equipment that is portable or is installed or purchased to be installed on farm machinery and equipment. “Precision farming equipment” includes the following items used only in computer-assisted farming, ranching or aquaculture production operations: Soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guiding systems, modems, data communications equipment and any necessary mounting hardware, wiring and antennas. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of tangible personal property to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of

service designated by the private nonprofit organization, and all sales of tangible personal property for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose, and all sales of food products by or on behalf of any such contractor or organization for any such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b, *Second* through *Sixth*. As used in this paragraph, “severing” shall have the meaning ascribed thereto by K.S.A. 79-4216(k), and amendments thereto. For all sales of natural gas, electricity and heat delivered through mains, lines or pipes pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions of this subsection shall expire on December 31, 2005;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises occurring prior to January 1, 2006;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418, and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) “Mobile homes” and “manufactured homes” shall have the meanings ascribed thereto by K.S.A. 58-4202, and amendments thereto; and (2) “sales of used mobile homes or manufactured homes” means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased prior to January 1, 2012, except as otherwise provided, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115, and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business, and all sales of tangible personal property or services purchased on or after January 1, 2012, for the purpose of and in

conjunction with constructing, reconstructing, enlarging or remodeling a business which meets the requirements established in K.S.A. 74-50,115(e), and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114, and amendments thereto. Project exemption certificates that have been previously issued under this subsection by the department of revenue pursuant to K.S.A. 74-50,115, and amendments thereto, but not including K.S.A. 74-50,115(e), and amendments thereto, prior to January 1, 2012, and have not expired will be effective for the term of the project or two years from the effective date of the certificate, whichever occurs earlier. Project exemption certificates that are submitted to the department of revenue prior to January 1, 2012, and are found to qualify will be issued a project exemption certificate that will be effective for a two-year period or for the term of the project, whichever occurs earlier;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have

the meanings ascribed thereto by K.S.A. 58-4202, and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment, including durable medical equipment, purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes. As used in this subsection, "durable medical equipment" means equipment including repair and replacement parts for such equipment, which can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury and is not worn in or on the body, but does not include mobility enhancing equipment as defined in subsection (r), oxygen delivery equipment, kidney dialysis equipment or enteral feeding systems;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based facility for people with intellectual disability or mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b, and amendments thereto, and all sales of tangible personal property or services purchased by contractors during the time period from July, 2003, through June, 2006, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based facility for people with intellectual disability or mental health center located in Riverton, Cherokee County, Kansas, which would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) “Integrated production operation” means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) “production line” means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) “manufacturing or processing plant or facility” means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) “manufacturing or processing business” means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy prod-

ucts in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) “repair and replacement parts and accessories” means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) “primary” or “primarily” mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer’s integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;



(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from off-site, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E); (F) all machinery and equipment used in surface mining activities as described in K.S.A. 49-601 et seq., and amendments thereto, beginning from the time a reclamation plan is filed to the acceptance of the completed final site reclamation.

(5) “Machinery and equipment used as an integral or essential part of an integrated production operation” shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purposes at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(l) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement

of public health, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such materials purchased by a nonprofit corporation which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such tangible personal property purchased by a nonprofit organization which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986,

for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American heart association, Kansas affiliate, inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas alliance for the mentally ill, inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas mental illness awareness council for the purposes of advocacy for persons who are mentally ill and for education, research and support for them and their families;

(4) the American diabetes association Kansas affiliate, inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American lung association of Kansas, inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's disease and related disorders association, inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease;

(8) the national kidney foundation of Kansas and western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

(9) the heartstrings community foundation for the purpose of providing training, employment and activities for adults with developmental disabilities;

(10) the cystic fibrosis foundation, heart of America chapter, for the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease;

(11) the spina bifida association of Kansas for the purpose of providing financial, educational and practical aid to families and individuals with spina bifida. Such aid includes, but is not limited to, funding for medical devices, counseling and medical educational opportunities;

(12) the CHWC, Inc., for the purpose of rebuilding urban core neighborhoods through the construction of new homes, acquiring and reno-

vating existing homes and other related activities, and promoting economic development in such neighborhoods;

(13) the cross-lines cooperative council for the purpose of providing social services to low income individuals and families;

(14) the dreams work, inc., for the purpose of providing young adult day services to individuals with developmental disabilities and assisting families in avoiding institutional or nursing home care for a developmentally disabled member of their family;

(15) the KSDS, Inc., for the purpose of promoting the independence and inclusion of people with disabilities as fully participating and contributing members of their communities and society through the training and providing of guide and service dogs to people with disabilities, and providing disability education and awareness to the general public;

(16) the lyme association of greater Kansas City, Inc., for the purpose of providing support to persons with lyme disease and public education relating to the prevention, treatment and cure of lyme disease;

(17) the dream factory, inc., for the purpose of granting the dreams of children with critical and chronic illnesses;

(18) the Ottawa Suzuki strings, inc., for the purpose of providing students and families with education and resources necessary to enable each child to develop fine character and musical ability to the fullest potential;

(19) the international association of lions clubs for the purpose of creating and fostering a spirit of understanding among all people for humanitarian needs by providing voluntary services through community involvement and international cooperation;

(20) the Johnson county young matrons, inc., for the purpose of promoting a positive future for members of the community through volunteerism, financial support and education through the efforts of an all volunteer organization;

(21) the American cancer society, inc., for the purpose of eliminating cancer as a major health problem by preventing cancer, saving lives and diminishing suffering from cancer, through research, education, advocacy and service;

(22) the community services of Shawnee, inc., for the purpose of providing food and clothing to those in need;

(23) the angel babies association, for the purpose of providing assistance, support and items of necessity to teenage mothers and their babies; and

(24) the Kansas fairgrounds foundation for the purpose of the preservation, renovation and beautification of the Kansas state fairgrounds;

(ww) all sales of tangible personal property purchased by the habitat for humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant

to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(yy) all sales of tangible personal property and services purchased by

a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued,

such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such tangible personal property and services purchased by a primary care clinic or health center which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing,



equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation;

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas academy of science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials;

(hhh) all sales of tangible personal property and services purchased by or on behalf of all domestic violence shelters that are member agencies of the Kansas coalition against sexual and domestic violence;

(iii) all sales of personal property and services purchased by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the collection, storage and distribution of food products to nonprofit organizations which distribute such food products to persons pursuant to a food distribution program on a charitable basis without fee or charge, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities used for the collection and storage of such food products for any such organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and

furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after July 1, 2005, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(jjj) all sales of dietary supplements dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "dietary supplement" means any product, other than tobacco, intended to supplement the diet that: (1) Contains one or more of the following dietary ingredients: A vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet

by increasing the total dietary intake or a concentrate, metabolite, constituent, extract or combination of any such ingredient; (2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for ingestion, in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and (3) is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 C.F.R. § 101.36;

(lll) all sales of tangible personal property and services purchased by special olympics Kansas, inc. for the purpose of providing year-round sports training and athletic competition in a variety of olympic-type sports for individuals with intellectual disabilities by giving them continuing opportunities to develop physical fitness, demonstrate courage, experience joy and participate in a sharing of gifts, skills and friendship with their families, other special olympics athletes and the community, and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization;

(mmm) all sales of tangible personal property purchased by or on behalf of the Marillac center, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing psycho-social-biological and special education services to children, and all sales of any such property by or on behalf of such organization for such purpose;

(nnn) all sales of tangible personal property and services purchased by the west Sedgwick county-sunrise rotary club and sunrise charitable fund for the purpose of constructing a boundless playground which is an integrated, barrier free and developmentally advantageous play environment for children of all abilities and disabilities;

(ooo) all sales of tangible personal property by or on behalf of a public library serving the general public and supported in whole or in part with tax money or a not-for-profit organization whose purpose is to raise funds for or provide services or other benefits to any such public library;

(ppp) all sales of tangible personal property and services purchased by or on behalf of a homeless shelter which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal income tax code of 1986, and used by any such homeless shelter to provide emergency and transitional housing for individuals and families experiencing homelessness, and all sales of any such property by or on behalf of any such homeless shelter for any such purpose;

(qqq) all sales of tangible personal property and services purchased by TLC for children and families, inc., hereinafter referred to as TLC, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meet-

ing additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of TLC for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC. When TLC contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(rrr) all sales of tangible personal property and services purchased by any county law library maintained pursuant to law and sales of tangible personal property and services purchased by an organization which would have been exempt from taxation under the provisions of this subsection if purchased directly by the county law library for the purpose of providing legal resources to attorneys, judges, students and the general public, and

all sales of any such property by or on behalf of any such county law library;

(sss) all sales of tangible personal property and services purchased by catholic charities or youthville, hereinafter referred to as charitable family providers, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of charitable family providers for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for charitable family providers for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by charitable family providers. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for charitable family providers. When charitable family providers contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to charitable family providers a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, charitable family providers shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any pur-

pose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(ttt) all sales of tangible personal property or services purchased by a contractor for a project for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which has been granted an exemption pursuant to subsection (qq), which such home or facility is located in a city which has been designated as a qualified hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and amendments thereto, and which such project is related to the purposes of K.S.A. 75-5071 et seq., and amendments thereto, and which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit museum. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility for any such nonprofit museum. When any such nonprofit museum shall contract for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such nonprofit museum a sworn statement on a form to be provided by the director of taxation that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in a home or facility or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such nonprofit museum shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials

purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(uuu) all sales of tangible personal property and services purchased by Kansas children's service league, hereinafter referred to as KCSL, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing for the prevention and treatment of child abuse and maltreatment as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of KCSL for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for KCSL for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by KCSL. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for KCSL. When KCSL contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to KCSL a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, KCSL shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of



any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(vvv) all sales of tangible personal property or services, including the renting and leasing of tangible personal property or services, purchased by jazz in the woods, inc., a Kansas corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing jazz in the woods, an event benefiting children-in-need and other nonprofit charities assisting such children, and all sales of any such property by or on behalf of such organization for such purpose;

(www) all sales of tangible personal property purchased by or on behalf of the Frontenac education foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education support for students, and all sales of any such property by or on behalf of such organization for such purpose;

(xxx) all sales of personal property and services purchased by the booth theatre foundation, inc., an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of the booth theatre, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling the booth theatre for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director

of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after January 1, 2007, but prior to the effective date of this act upon the gross receipts received from any sale which would have been exempted by the provisions of this subsection had such sale occurred after the effective date of this act shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(yyy) all sales of tangible personal property and services purchased by TLC charities foundation, inc., hereinafter referred to as TLC charities, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of encouraging private philanthropy to further the vision, values, and goals of TLC for children and families, inc.; and all sales of such property and services by or on behalf of TLC charities for any such purpose and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC charities for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC charities. Nothing in this subsection shall be deemed to exempt the purchase of any construction ma-

chinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC charities. When TLC charities contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC charities a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be incorporated into the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC charities shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(zzz) all sales of tangible personal property purchased by the rotary club of shawnee foundation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended, used for the purpose of providing contributions to community service organizations and scholarships;

(aaaa) all sales of personal property and services purchased by or on behalf of victory in the valley, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing a cancer support group and services for persons with cancer, and all sales of any such property by or on behalf of any such organization for any such purpose;

(bbbb) all sales of entry or participation fees, charges or tickets by Guadalupe health foundation, which is exempt from federal income tax-

ation pursuant to section 501(c)(3) of the federal internal revenue code, for such organization's annual fundraising event which purpose is to provide health care services for uninsured workers;

(cccc) all sales of tangible personal property or services purchased by or on behalf of wayside waifs, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing such organization's annual fundraiser, an event whose purpose is to support the care of homeless and abandoned animals, animal adoption efforts, education programs for children and efforts to reduce animal over-population and animal welfare services, and all sales of any such property, including entry or participation fees or charges, by or on behalf of such organization for such purpose;

(dddd) all sales of tangible personal property or services purchased by or on behalf of goodwill industries or Easter seals of Kansas, inc., both of which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education, training and employment opportunities for people with disabilities and other barriers to employment;

(eeee) all sales of tangible personal property or services purchased by or on behalf of All American beef battalion, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of educating, promoting and participating as a contact group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services;

(ffff) all sales of tangible personal property and services purchased by sheltered living, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing residential and day services for people with developmental disabilities or intellectual disability, or both, and all sales of any such property by or on behalf of sheltered living, inc., for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc., for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities for sheltered living, inc. When sheltered living, inc., contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials

for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc., a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc., shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(gggg) all sales of game birds for which the primary purpose is use in hunting;

(hhhh) all sales of tangible personal property or services purchased on or after July 1, 2014, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business identified under the North American industry classification system (NAICS) sub-sectors 1123, 1124, 112112, 112120 or 112210, and the sale and installation of machinery and equipment purchased for installation at any such business. The exemption provided in this subsection shall not apply to projects that have actual total costs less than \$50,000. When a person contracts for the construction, reconstruction, enlargement or remodeling of any such business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to the owner of the business a sworn statement, on a

form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor of the contractor, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(iii) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for Wichita children's home for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by Wichita children's home. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for Wichita children's home. When Wichita children's home contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to Wichita children's home a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, Wichita children's home shall be liable for the tax on all materials purchased for the project, and upon payment, it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor, who shall use or otherwise dispose of any materials purchased under such a certificate for

any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(jjjj) all sales of tangible personal property or services purchased by or on behalf of the beacon, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing those desiring help with food, shelter, clothing and other necessities of life during times of special need; ~~and~~

(kkkk) all sales of tangible personal property and services purchased by or on behalf of reaching out from within, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of sponsoring self-help programs for incarcerated persons that will enable such incarcerated persons to become role models for non-violence while in correctional facilities and productive family members and citizens upon return to the community; ~~and~~

(llll) *all sales of tangible personal property and services purchased by Gove county healthcare endowment foundation, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of constructing and equipping an airport in Quinter, Kansas, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing and equipping an airport in Quinter, Kansas, for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing or equipping of facilities for such organization. When such organization shall contract for the purpose of constructing or equipping an airport in Quinter, Kansas, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials*

*which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation no later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. The provisions of this subsection shall expire and have no effect on and after July 1, 2019.*

Sec. 7. K.S.A. 79-3606d is hereby amended to read as follows: 79-3606d. (a) The following shall be exempt from the tax imposed by the Kansas retailers' sales tax act: All sales of tangible personal property and services purchased during calendar year ~~1996~~ 2016, necessary to construct, reconstruct, repair or replace any fence which was damaged or destroyed by fire occurring during calendar year ~~1996~~ 2016, and the purpose for which is to enclose land devoted to agricultural use. Sales tax paid on and after January 1, ~~1996~~ 2016, but prior to the effective date of this act upon the gross receipts received from any such sale shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this section. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee.

(b) The provisions of this section shall be deemed to be supplemental to the Kansas retailers' sales tax act.

Sec. 8. K.S.A. 79-3606d and K.S.A. 2015 Supp. 12-6a31, 74-8133, 79-3399 and 79-3606 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 11, 2016.

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## CHAPTER 85

Senate Substitute for HOUSE BILL No. 2056

AN ACT concerning bail enforcement agents; relating to licensure by the attorney general; sureties and bail agents; amending K.S.A. 22-2806 and K.S.A. 2015 Supp. 12-4516, 21-6614 and 22-2809a and repealing the existing sections; also repealing K.S.A. 2015 Supp. 12-4516d and 21-6614f.

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

New Section 1. As used in sections 1 through 10, and amendments thereto:

(a) “Surety” means a person or commercial surety, other than a defendant in a criminal proceeding, that guarantees the appearance of a defendant in a criminal proceeding, by executing an appearance bond.

(b) “Bail agent” means a person authorized by a surety to execute surety bail bonds on its behalf.

(c) “Bail enforcement agent” means a person not performing the duties of a law enforcement officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a surety or bail bond agreement, commonly referred to as a bounty hunter.

New Sec. 2. (a) Except as provided in subsection (b), it shall be unlawful for any person to engage in the business of a bail enforcement agent in this state unless such person is licensed as a bail enforcement agent under sections 1 through 10, and amendments thereto.

(b) The following persons shall not be deemed to be engaging in the bail enforcement business:

(1) A surety, authorized as such in the state of Kansas, who is attempting to enforce a bail bond; or

(2) a bail agent attempting to enforce a bail bond.

New Sec. 3. (a) Every person desiring to be licensed in Kansas as a bail enforcement agent shall make application to the attorney general. An application for a bail enforcement agent license shall be on a form prescribed by the attorney general and accompanied by the required application fee. An application shall be verified under penalty of perjury and shall include:

(1) The full name and business address of the applicant;

(2) two photographs of the applicant taken within 30 days before the date of application, of a type prescribed by the attorney general;

(3) a statement of the applicant’s employment history;

(4) a statement of the applicant’s criminal history, if any; and

(5) one classifiable set of the applicant’s fingerprints.

(b) (1) 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.

(2) Each applicant 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 applicant and whether the applicant has been convicted of any crime that would disqualify the applicant from being licensed as a bail enforcement agent under sections 1 through 10, and amendments thereto. The attorney general is authorized to use the information obtained from the state and national criminal history records check to determine the applicant's eligibility for such license.

(3) Each applicant shall pay a fee for the criminal history records check in an amount necessary to reimburse the attorney general for the cost of the criminal history records check. Such fee shall be in an amount fixed by the attorney general pursuant to section 8, and amendments thereto, and shall be in addition to the applicable original or renewal application fee amount fixed by the attorney general pursuant to section 8, and amendments thereto.

(c) In accordance with the Kansas administrative procedure act, the attorney general may deny a license if the applicant has:

(1) Committed any act on or after July 1, 2016, which, if committed by a licensee, would be grounds for the censure, limitation, conditioning, suspension or revocation of a license under sections 1 through 10, and amendments thereto;

(2) been convicted of a felony, unless such conviction has been expunged;

(3) in the 10 years immediately preceding the submission of the application, been convicted of an offense classified as a person misdemeanor offense, or a substantially similar offense from another jurisdiction, unless such conviction has been expunged;

(4) while unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 1 through 10, and amendments thereto; or

(5) knowingly made any false statement in the application.

(d) The attorney general may charge a fee for initial application forms and materials in an amount fixed by the attorney general pursuant to section 8, and amendments thereto. Such fee shall be credited against the application fee of any person who subsequently submits an application.

(e) Every application for an initial or a renewal license shall be accompanied by a fee in an amount fixed by the attorney general pursuant to section 8, and amendments thereto.

New Sec. 4. (a) The license, when issued, shall be in such form as may be determined by the attorney general and shall include the:

(1) Name of the licensee; and

(2) number and date of the license.

(b) The license at all times shall be posted in a conspicuous place in the principal place of business of the licensee. Upon the issuance of a license, a pocket card of such size, design and content as determined by the attorney general shall be issued without charge to each licensee. Such card shall be evidence that the licensee is duly licensed pursuant to sections 1 through 10, and amendments thereto. When any licensee terminates such licensee's activities as a bail enforcement agent, or such licensee's license has been suspended or revoked, the card shall be surrendered, within five days after such termination, suspension or revocation, to the attorney general for cancellation. Within 30 days after any change of address or of any change in its officers, directors, partners or associates, a licensee shall notify the attorney general thereof. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

New Sec. 5. (a) Any license issued under sections 1 through 10, and amendments thereto, shall expire two years from the date of issuance and may be renewed every two years thereafter. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fee required by section 8, and amendments thereto, except that:

(1) The application for renewal shall provide the information required of original applicants if the information shown on the original application or any renewal thereof on file with the attorney general is no longer accurate;

(2) a new photograph and classifiable set of fingerprints shall be submitted with the application for renewal only if the photograph and fingerprints on file with the attorney general has been on file more than four years; and

(3) additional information may be required by rules and regulations adopted by the attorney general.

(b) A license issued under sections 1 through 10, and amendments thereto, shall not be assignable.

New Sec. 6. (a) In accordance with the Kansas administrative procedure act, the attorney general may censure, limit, condition, suspend or revoke a license issued under sections 1 through 10, and amendments thereto, if the attorney general determines that the licensee has:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) violated any provisions of K.S.A. 22-2809a or sections 1 through 10, and amendments thereto;

(3) been convicted of a felony or any other offense described in section 3, and amendments thereto;

(4) committed any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(5) committed any act which is grounds for denial of an application for a license;

(6) become subject to a domestic protection order from this or any jurisdiction which complies with 18 U.S.C. § 922(g)(8);

(7) become subject to K.S.A. 59-2945 et seq. or K.S.A. 59-29b45 et seq., and amendments thereto, or a substantially similar proceeding from another jurisdiction; or

(8) become subject to any proceeding which could render the licensee subject to censure, limitation, condition, suspension or revocation of such licensee's license under the provisions of this section.

(b) The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction as that term is used in this section or in section 3, and amendments thereto, and a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning thereof.

New Sec. 7. (a) The licensing and regulation of bail enforcement agents shall be under the exclusive jurisdiction and control of the attorney general, as provided in sections 1 through 10, and amendments thereto, and no city may adopt any ordinance which provides for the licensing or regulation of bail enforcement agents. Any such ordinance which is so adopted, or which has been adopted on or before July 1, 2015, is hereby declared null and void.

(b) The attorney general shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 1 through 10, and amendments thereto.

New Sec. 8. (a) In each fiscal year, the attorney general shall determine the amount of funds which will be required during the next ensuing fiscal year to properly administer the laws which the attorney general is directed to enforce and administer relating to the licensure and regulation of bail enforcement agents. The attorney general, by the adoption of rules and regulations, shall fix fees in accordance with this section in such reasonable sums as may be necessary for such purposes.

(b) After fixing such fees, the attorney general may charge and collect the fees, in advance for the following purposes, subject to the following limitations:

(1) For initial application forms and materials, not to exceed \$15;

(2) for application for licensure, not to exceed \$200; and

(3) for renewal of license, not to exceed \$175.

(c) A duplicate license shall be issued upon the filing of a statement covering the loss of the license and the payment of a fee of \$15 for the issuance of a duplicate license. Each duplicate license shall have the word

“duplicate” stamped across the face thereof and shall bear the same number as the original.

(d) In addition to the applicable original or renewal application fee amount fixed by the attorney general pursuant to this section, the attorney general may charge and collect a fee from each applicant to conduct a criminal history records check. Such fee shall be in an amount fixed by the attorney general and shall not exceed an amount necessary to reimburse the attorney general for the cost of such criminal history records check.

New Sec. 9. The attorney general shall remit all moneys received from fees or charges imposed pursuant to sections 1 through 10, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the bail enforcement agents fee fund, which is hereby created. Moneys in the bail enforcement agents fee fund shall be used solely for the purpose of administering and implementing sections 1 through 10, and amendments thereto, and any other law relating to the licensure and regulation of bail enforcement agents. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.

New Sec. 10. (a) The unlicensed conduct as a bail enforcement agent prohibited by this act and K.S.A. 22-2809a, and amendments thereto, constitutes an unconscionable act or practice in violation of K.S.A. 50-627, and amendments thereto, and any person who engages in unlicensed conduct as a bail enforcement agent shall be subject to the remedies and penalties provided by the Kansas consumer protection act.

(b) For the purposes of the remedies and penalties provided by the Kansas consumer protection act:

(1) The person committing unlicensed conduct as a bail enforcement agent shall be deemed the supplier, and the person who is the victim of such conduct shall be deemed the consumer; and

(2) proof of a consumer transaction shall not be required.

(c) Notwithstanding any provision of the Kansas consumer protection act to the contrary, only the attorney general, or the attorney general's designee, may bring a civil action alleging a violation of the Kansas consumer protection act pursuant to this section. This section shall not be construed as creating or allowing a private right of action under the Kansas consumer protection act.

(d) In addition to any civil penalties provided by this section, a person who violates any provision of sections 1 through 10, and amendments

thereto, may be prosecuted for, convicted of, and punished for an offense under K.S.A. 22-2809a, and amendments thereto.

(e) This section shall be part of and supplemental to the Kansas consumer protection act.

New Sec. 11. (a) As used in this section:

(1) “Compensated surety” means any person who or entity that is organized under the laws of the state of Kansas that, as surety, issues appearance bonds for compensation, is responsible for any forfeiture and is liable for appearance bonds written by such person’s or entity’s authorized agents. A compensated surety is either an insurance agent surety or a property surety.

(2) “Insurance agent surety” means a compensated surety licensed by the insurance commissioner to issue surety bonds or appearance bonds in this state and who represents an authorized insurance company. An insurance agent surety may have other insurance agent sureties working with or for such surety.

(3) “Property surety” means a compensated surety who secures appearance bonds by property pledged as security. A property surety may be a person or entity, other than a corporation, and may authorize bail agents to act on behalf of the property surety in writing appearance bonds.

(4) “Bail agent” means a person authorized by a compensated surety to execute surety bail bonds on such surety’s behalf.

(b) Every compensated surety shall submit an application to the chief judge of the judicial district, or the chief judge’s designee, in each judicial district where such surety seeks to act as a surety. A compensated surety shall not act as a surety in such judicial district prior to approval of such application.

(1) The application shall include, but is not limited to, the following information for each insurance agent surety, property surety or bail agent:

(A) A copy of the applicant’s Kansas driver’s license or nondriver’s identification card;

(B) a statement, made under penalty of perjury, that the applicant is a resident of this state and is not prohibited by K.S.A. 22-2809a(c), and amendments thereto, from acting as a surety;

(C) a certificate of continuing education compliance in accordance with subsection (f).

(2) The application for each insurance agent surety also shall include:

(A) A copy of the qualifying power of attorney certificates issued to such surety by any insurance company;

(B) a current and valid certificate of license from the insurance department; and

(C) a current and valid certificate of authority from the insurance department.

(3) The application for each property surety also shall include:

(A) A list of all bail agents authorized by such property surety to write appearance bonds on such property surety's behalf and all documentation from such bail agents demonstrating compliance with subsection (b)(1); and

(B) an affidavit describing the property by which such property surety proposes to justify its obligations and the encumbrances thereon, and all such surety's other liabilities. The description shall include a valuation of the property described therein. If the valuation is not readily evident, an appraisal of the property may be required and, if required, shall be incorporated into the affidavit.

(c) A property surety authorized to act as a surety in a judicial district pursuant to subsection (b) shall be allowed outstanding appearance bonds not to exceed an aggregate amount which is 15 times the valuation of the property described in subsection (b)(3). Such property surety shall not write any single appearance bond that exceeds 35% of the total valuation of the property described in subsection (b)(3).

(d) (1) Each judicial district may, by local rule, require additional information from any compensated surety and establish what property is acceptable for bonding purposes under subsection (b)(3).

(2) A judicial district shall not require any compensated surety to apply for authorization in such judicial district more than once per year, but may require additional reporting from any compensated surety in its discretion. If the judicial district does not require an annual application, each compensated surety or bail agent shall provide a certificate of continuing education compliance in accordance with subsection (f) to the judicial district each year.

(3) A judicial district shall not decline authorization for a compensated surety solely on the basis of type of compensated surety.

(e) (1) Nothing in this section shall be construed to require the chief judge of the judicial district, or the chief judge's designee, to authorize any compensated surety to act as a surety in such judicial district if the judge or designee finds, in such person's discretion, that such authorization is not warranted.

(2) If such authorization is granted, the chief judge of the judicial district, or the chief judge's designee, may terminate or suspend the authorization at any time.

(A) If the authorization is suspended for 30 days or more, the judge or designee shall make a record describing the length of the suspension and the underlying cause and provide such record to the surety. Such surety, upon request, shall be entitled to a hearing within 30 days after the suspension is ordered.

(B) If the authorization is terminated, the judge or designee shall make a record describing the underlying cause and provide such record to the surety. Such surety, upon request, shall be entitled to a hearing within 30 days after the termination is ordered.

(3) If an authorized compensated surety does not comply with the continuing education requirements in subsection (f), the chief judge of the judicial district, or the chief judge's designee, may allow a conditional authorization to continue acting as a surety for 90 days. If such compensated surety does not comply with the continuing education requirements in subsection (f) within 90 days, such conditional authorization shall be terminated and such compensated surety shall not act as a surety in such judicial district.

(f) (1) Every compensated surety shall obtain at least eight hours of continuing education credits during each 12-month period beginning on January 1, 2017.

(2) The Kansas bail agents association shall either provide or contract for a minimum of eight hours of continuing education classes to be held at least once annually in each congressional district and may provide additional classes in its discretion. The chief judge in each judicial district may provide a list of topics to be covered during the continuing education classes. A schedule of such classes shall be publicly available. The association shall not charge more than \$250 annually for the eight hours of continuing education classes, and the cost of any class with less than eight hours of continuing education shall be prorated accordingly. Any fee charged for attending continuing education classes shall not be increased or decreased based upon a compensated surety's membership or lack of membership in the association.

(3) Upon completion of at least eight hours of continuing education credits during each 12-month period by a compensated surety, the Kansas bail agents association shall issue a certificate of continuing education compliance to such surety. The certificate shall be prepared and delivered to the compensated surety within 30 days of such surety's completion of the continuing education requirements. The certificate shall show in detail the dates and hours of each course attended, along with the signature of the Kansas bail agents association official attesting that all continuing education requirements have been completed.

(4) Any continuing education credits used to comply with conditional authorization pursuant to subsection (e)(3) shall not be applied towards compliance in the current 12-month period or any subsequent 12-month period.

(5) A person operating as a sufficient surety or bail bondsman in the state immediately prior to the effective date of this act shall be deemed to be compensated surety under this act and shall be exempt from the continuing education requirements for a conditional authorization pursuant to this section until July 1, 2017.

Sec. 12. K.S.A. 2015 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 K.S.A. 2015 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. 2015 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. 2015 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 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 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 a first violation of a city ordinance which would also constitute a first violation of K.S.A. 8-1567 or K.S.A. 2015 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. 2015 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 peti-

tioner 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. 2015 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. 2015 Supp. 75-7c01 et seq., and amendments thereto; *or*

*(L) for applications received on and after July 1, 2016, to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to sections 1 through 10, 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 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 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 re-

quest 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, race-track 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:

(A) Carry a concealed weapon pursuant to the personal and family protection act; or

(B) *act as a bail enforcement agent pursuant to sections 1 through 10, and amendments thereto;*

(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. 13. K.S.A. 2015 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, 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, post-release 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. 2015 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 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. 2015 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 pro-

hibited 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 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 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. 2015 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. 2015 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. 2015 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. 2015 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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. 2015 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 \$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. 2015 Supp. 75-7b21, and amendments thereto, or employment as a de-

tective 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. 2015 Supp. 75-7c01 et seq., and amendments thereto; *or*

*(L) for applications received on and after July 1, 2016, to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to sections 1 through 10, 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 K.S.A. 2015 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 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:

(A) Aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act; *or*

(B) *act as a bail enforcement agent pursuant to sections 1 through 10, and amendments thereto; 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. 14. K.S.A. 22-2806 is hereby amended to read as follows: 22-2806. Every *uncompensated* surety, except an insurance company authorized to transact business pursuant to ~~subsection (d) of~~ K.S.A. 40-1102(d), and amendments thereto, shall justify by affidavit and may be required to describe in the affidavit the property by which such surety proposes to justify and the encumbrances thereon, the number and amount of other bonds and undertakings for bail entered into by such surety and remaining undischarged and all such surety's other liabilities. No bond shall be approved unless the *uncompensated* surety appears to be qualified. The appearance bond and the *uncompensated* sureties may be approved and accepted by a judge of the court where the action is pending or by the sheriff of the county.

Sec. 15. K.S.A. 2015 Supp. 22-2809a is hereby amended to read as follows: 22-2809a. (a) As used in this section:

(1) "Surety" means a person or commercial surety, other than a defendant in a criminal proceeding, that guarantees the appearance of a defendant in a criminal proceeding, by executing an appearance bond;

(2) ~~"agent of a surety" means a person not performing the duties of a law enforcement officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a surety or bail bond agreement.~~ "bail agent" means a person authorized by a surety to execute surety bail bonds on behalf of such surety; and

(3) "bail enforcement agent" means a person not performing the duties of a law enforcement officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a surety or bail bond

*agreement, commonly referred to as a bounty hunter, but is not a surety or bail agent.*

(b) ~~Any surety or agent of a surety, commonly referred to as a bounty hunter, bail agent or bail enforcement agent who intends to apprehend any person in this state pursuant to K.S.A. 22-2809, and amendments thereto, or under similar authority from any other state, shall inform law enforcement authorities in the city or county in which such surety or agent of a surety, bail agent or bail enforcement agent intends such apprehension, before attempting such apprehension. The surety or agent of a surety, bail agent or bail enforcement agent shall present to the local law enforcement authorities a certified copy of the bond, a valid government-issued photo identification, written appointment of agency, if not the actual surety, and all other appropriate paperwork identifying the principal and the person to be apprehended. Local law enforcement may accompany the surety or agent, bail agent or bail enforcement agent.~~

(c) ~~No person who has been convicted, in this or any other jurisdiction, of a felony shall act as a surety or as an agent of a surety, bail agent or bail enforcement agent, unless such conviction has been expunged.~~

(d) ~~A bail enforcement agent must be licensed under sections 1 through 10, and amendments thereto, in order to apprehend a person pursuant to K.S.A. 22-2809, and amendments thereto.~~

(e) ~~An out-of-state surety or agent of a surety, bail agent or bail enforcement agent who intends to apprehend any person in this state pursuant to K.S.A. 22-2809, and amendments thereto, or under similar authority from any other state, shall contract with an individual that has been authorized by any court in this state to act as a surety or agent of a surety, before attempting such apprehension, and be accompanied by such individual during such apprehension shall:~~

(1) ~~Have a bail enforcement agent's license pursuant to sections 1 through 10, and amendments thereto;~~

(2) ~~contract with an individual that has been authorized by any court in this state to act as a surety and be accompanied by such individual during such apprehension; or~~

(3) ~~contract with an individual who is currently a licensed bail enforcement agent pursuant to sections 1 through 10, and amendments thereto, and be accompanied by such individual during such apprehension.~~

~~(e)-(f)~~ Violation of this section is a class A nonperson misdemeanor for the first conviction of a violation and a severity level 9, nonperson felony upon a second or subsequent conviction of a violation.

Sec. 16. K.S.A. 22-2806 and K.S.A. 2015 Supp. 12-4516, 12-4516d, 21-6614, 21-6614f and 22-2809a are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 11, 2016.

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CHAPTER 86  
HOUSE BILL No. 2502

AN ACT concerning firearms; relating to the possession thereof; relating to the personal and family protection act; relating to weapons in schools; amending K.S.A. 72-89a01 and K.S.A. 2015 Supp. 75-7c04, 75-7c05, 75-7c10 and 75-7c20 and repealing the existing sections.

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

New Section 1. (a) No school district shall adopt a policy that prohibits an organization from conducting activities on school property solely because such activities include the possession and use of air guns by the participants. Any policy adopted pursuant to K.S.A. 72-89a02, and amendments thereto, shall not prohibit the possession of an air gun by a pupil on school property if such pupil is a participant in the activities of an organization.

(b) A policy adopted pursuant to K.S.A. 72-89a02, and amendments thereto, may prohibit the possession of air guns by pupils at school, on school property or at a school supervised activity, except when a pupil is participating in activities conducted by an organization, or is in transit to or from such activities.

(c) Any individual desiring to participate in activities conducted by an organization may be required to sign, or have a parent or legal guardian sign, a liability waiver. The liability waiver shall be in such form as prescribed by the chief administrative officer of the school and shall contain the appropriate language so as to relieve the school district, the school and all school personnel from liability for any claims arising out of the acts or omissions of any individual or any school personnel relating to activities conducted by an organization.

(d) The provisions of this section shall be a part of and supplemental to K.S.A. 72-89a01 et seq., and amendments thereto.

Sec. 2. K.S.A. 72-89a01 is hereby amended to read as follows: 72-89a01. As used in this act:

(a) "Board of education" means the board of education of a unified school district or the governing authority of an accredited nonpublic school.

(b) "School" means a public school or an accredited nonpublic school.

(c) "Public school" means a school operated by a unified school district organized under the laws of this state.



(d) “Accredited nonpublic school” means a nonpublic school participating in the quality performance accreditation system.

(e) “Chief administrative officer of a school” means, in the case of a public school, the superintendent of schools and, in the case of an accredited nonpublic school, the person designated as chief administrative officer by the governing authority of the school.

(f) “Federal law” means the individuals with disabilities education act, section 504 of the rehabilitation act, the gun-free schools act of 1994, and regulations adopted pursuant to such acts.

(g) “Secretary of education” means the secretary of the United States department of education.

(h) (1) “Weapon” means ~~(1)~~: (A) Any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; ~~(2)~~ (B) the frame or receiver of any weapon described in the preceding example; ~~(3)~~ (C) any firearm muffler or firearm silencer; ~~(4)~~ (D) any explosive, incendiary, or poison gas ~~(A)~~: (i) Bomb; ~~(B)~~; (ii) grenade; ~~(C)~~; (iii) rocket having a propellant charge of more than four ounces; ~~(D)~~; (iv) missile having an explosive or incendiary charge of more than ¼ ounce; ~~(E)~~; (v) mine; or ~~(F)~~ (vi) similar device; ~~(5)~~ (E) any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than ½ inch in diameter; ~~(6)~~ (F) any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled; ~~(7)~~ (G) any bludgeon, sandclub, metal knuckles or throwing star; ~~(8)~~ (H) any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement; ~~(9)~~ or (I) any electronic device designed to discharge immobilizing levels of electricity, commonly known as a stun gun.

(2) The term “weapon” does not include within its meaning ~~(1)~~: (A) An antique firearm; ~~(2)~~ (B) an air gun; (C) any device which is neither designed nor redesigned for use as a weapon; ~~(3)~~ (D) any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety; or similar device; ~~(4)~~ (E) surplus ordinance sold, loaned; or given by the secretary of the army pursuant to the provisions of section 4684(2), 4685; or 4686 of title 10 of the United States Code; ~~(5)~~ or (F) class C common fireworks.

(i) “Air gun” means any device which will or is designed to or may be readily converted to, expel a projectile by the release of compressed air or gas, and which is of 0.18 caliber or less and has a muzzle velocity that does not exceed 700 feet per second.

(j) *“Organization” means any profit or nonprofit association, whether school-sponsored or community-based, whose primary purpose is to provide youth development by engaging individuals under the age of 18 in activities designed to promote and encourage self-confidence, teamwork and a sense of community.*

Sec. 3. K.S.A. 2015 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 K.S.A. 2015 Supp. 21-6301(a)(10) through (a)(13) or K.S.A. 2015 Supp. 21-6304(a)(1) through (a)(3), and amendments thereto; or

(3) 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~~ a course that satisfies the require-

*ments of subsection (b)(1), 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) *evidence of completion of a course offered in another jurisdiction which is determined by the attorney general to have training requirements that are equal to or greater than those required by this act; or*

(D) a determination by the attorney general pursuant to subsection (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. 2015 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. 4. K.S.A. 2015 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. 2015 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. 2015 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) *Except as otherwise provided in subsection (i)*, 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 K.S.A. 2015 Supp. 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) *Except as otherwise provided in subsection (i)*, the sheriff, upon receipt of the items listed in subsection (b), 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. 2015 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) 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. 2015 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. 2015 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.

(i) *A person who presents proof that such person is on active duty with any branch of the armed forces of the United States and is stationed at a United States military installation located outside this state, may submit by mail an application described in subsection (a) and the other materials required by subsection (b) to the sheriff of the county where the applicant resides. Provided the applicant is fingerprinted at a United States military installation, the applicant may submit a full set of fingerprints of such applicant along with the application. Upon receipt of such items, 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.*

Sec. 5. K.S.A. 2015 Supp. 75-7c10 is hereby amended to read as follows: 75-7c10. Subject to the provisions of K.S.A. 2015 Supp. 75-7c20, and amendments thereto:

(a) 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 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 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 (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 shall not be liable for any wrongful act or omission relating to actions of persons 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 shall not be liable for any wrongful act or omission relating to actions of persons 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 legally qualified*, 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. 2015 Supp. 65-7402, and amendments thereto.

*(e) No public employer shall restrict or otherwise prohibit by personnel policies any employee, who is legally qualified, from carrying any concealed handgun while engaged in the duties of such employee's employment outside of such employer's place of business, including while in a means of conveyance.*

~~(e)~~(f) (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 ~~(i)~~ (j). 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.

(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. 2015 Supp. 75-7c22, and amendments thereto, who satisfies the requirements of either K.S.A. 2015 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)(g)~~ ~~On and after July 1, 2014,~~ The provisions of this section shall not apply to the carrying of a concealed handgun in the state capitol.

~~(g)(h)~~ For the purposes of this section:

(1) “Adequate security measures” shall have the same meaning as the term is defined in K.S.A. 2015 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; *and*

(3) “*public employer*” means the state and any municipality as those terms are defined in K.S.A. 75-6102, and amendments thereto, except the term “*public employer*” shall not include school districts.

~~(h)(i)~~ Nothing in this act shall be construed to authorize the carrying or possession of a handgun where prohibited by federal law.

~~(i)(j)~~ 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. 6. K.S.A. 2015 Supp. 75-7c20 is hereby amended to read as fol-



laws: 75-7c20. (a) The carrying of a concealed handgun shall not be prohibited in *any public area* of any state or municipal building unless such ~~building~~ *public area* has adequate security measures to ensure that no weapons are permitted to be carried into such ~~building~~ *public area* and the ~~building~~ *public area* is conspicuously posted *with either permanent or temporary signage approved by the governing body, or the chief administrative officer, if no governing body exists*, in accordance with K.S.A. 2015 Supp. 75-7c10, and amendments thereto.

(b) ~~The carrying of a concealed handgun shall not be prohibited throughout 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 in its entirety unless such building has adequate security measures at all public access entrances 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. 2015 Supp. 75-7c10, and amendments thereto.~~

(c) No state agency or municipality shall prohibit an employee from carrying a concealed handgun at the employee's work place unless the building has adequate security measures *at all public access entrances 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. 2015 Supp. 75-7c10, and amendments thereto.

(d) (1) 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, *or any public area thereof*, so long as that person has authority to enter through a restricted access entrance into such building, *or public area thereof*, which provides adequate security measures *at all public access entrances* and the building, *or public area thereof*, is conspicuously posted in accordance with K.S.A. 2015 Supp. 75-7c10, and amendments thereto.

(2) *Any person, who is not an employee of the state or a municipality and is not otherwise authorized to enter a state or municipal building through a restricted access entrance, shall be authorized to enter through a restricted access entrance, provided such person:*

(A) *Is authorized by the chief law enforcement officer, governing body, or the chief administrative officer, if no governing body exists, to enter such state or municipal building through a restricted access entrance;*

(B) *is issued an identification card by the chief law enforcement officer, governing body, or the chief administrative officer, if no governing body exists, which includes such person's photograph, name and any other identifying information deemed necessary by the issuing entity, and which states on the identification card that such person is authorized to enter such building through a restricted access entrance; and*

(C) *executes an affidavit or other notarized statement that such person acknowledges that certain firearms and weapons may be prohibited in such building and that violating any such regulations may result in the revocation of such person's authority to enter such building through a restricted access entrance.*

*The chief law enforcement officer, governing body, or the chief administrative officer, if no governing body exists, shall develop criteria for approval of individuals subject to this paragraph to enter the state or municipal building through a restricted access entrance. Such criteria may include the requirement that the individual submit to a state and national criminal history records check before issuance and renewal of such authorization and pay a fee to cover the costs of such background checks. An individual who has been issued a concealed carry permit by the state of Kansas shall not be required to submit to another state and national criminal records check before issuance and renewal of such authorization. Notwithstanding any authorization granted under this paragraph, an individual may be subjected to additional security screening measures upon reasonable suspicion or in circumstances where heightened security measures are warranted. Such authorization does not permit the individual to carry a concealed weapon into a public building, which has adequate security measures, as defined by this act, and which is conspicuously posted in accordance with K.S.A. 2015 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. 2015 Supp. 75-7c10, and amendments thereto, prohibiting the carrying of a concealed handgun in such building shall not be liable for any wrongful act or omission relating to actions of persons 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 shall not be liable for any wrongful act or omission relating to actions of persons 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)~~ (a).

(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 the public area has adequate security measures to ensure that no weapons are permitted to be carried into such public area and the public area is conspicuously posted in accordance with K.S.A. 2015 Supp. 75-7c10, and amendments thereto.~~

(i) The governing body or the chief administrative officer, if no governing body exists, of a state or municipal building, may exempt the building, ~~or any public area thereof~~, 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 until July 1, 2017~~, 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." 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, ~~or any public area thereof~~, from this section ~~for a period of only four years until July 1, 2017~~, 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. 2015 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. 2015 Supp. 75-7c22, and amend-

ments thereto, who satisfies the requirements of either K.S.A. 2015 Supp. 75-7c22(a) or (b), and amendments thereto, from carrying a concealed handgun into any state or municipal building, *or any public area thereof*, in accordance with the provisions of K.S.A. 2015 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 *armed* personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, *or any public area thereof*, 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 *or public area* 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) “*Authorized personnel*” means *employees of a state agency or municipality and any person granted authorization pursuant to subsection (d)(2), who are authorized to enter a state or municipal building through a restricted access entrance.*

~~(2)~~(3) 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)~~(4) “*Public area*” means *any portion of a state or municipal building that is open to and accessible by the public or which is otherwise designated as a public area by the governing body or the chief administrative officer, if no governing body exists, of such building.*

(5) “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)~~(6) “State” means the same as the term is defined in K.S.A. 75-6102, and amendments thereto.

~~(5)~~(7) (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,~~ The term “state and municipal building” shall not include the state capitol.

~~(6)~~(8) “Weapon” means a weapon described in K.S.A. 2015 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. 7. K.S.A. 72-89a01 and K.S.A. 2015 Supp. 75-7c04, 75-7c05, 75-7c10 and 75-7c20 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 11, 2016.

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## CHAPTER 87

Substitute for HOUSE BILL No. 2151

AN ACT concerning crimes, punishment and criminal procedure; relating to sentencing, early release from incarceration; eyewitness identification; grand juries; summoning; jury instructions; witnesses; amending K.S.A. 2015 Supp. 22-3001 and repealing the existing section.

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

New Section 1. (a) The secretary of corrections may transfer an offender from a correctional facility to home detention in the community if the secretary determines that community parenting release is an appropriate placement and:

(1) The offender is serving a current sentence for a nondrug severity level 4 through 10 felony or a drug severity level 3 through 5 felony and is determined to be low, low-moderate or moderate risk on a standardized risk assessment tool;

(2) the offender has no prior or current conviction for a sex offense or an inherently dangerous felony as defined in K.S.A. 2015 Supp. 21-5402, and amendments thereto, not including a drug severity level 3 through 5 felony;

(3) the offender has not been found by the United States attorney general to be subject to a deportation detainer or order;

(4) the offender signs any release of information waivers required to allow information regarding current or prior child in need of care cases involving the offender to be shared with the department of corrections;

(5) the offender had physical custody of such offender's minor child or was a legal guardian or custodian with physical custody of a minor child at the time the offense for which the offender is serving a sentence was committed;

(6) the offender has 12 months or less remaining of the offender's sentence; and

(7) the secretary of corrections determines that such placement is in the best interests of the child.

(b) Prior to transferring an offender from a correctional facility to

home detention pursuant to this section, the secretary of corrections shall obtain information from the department for children and families regarding any child in need of care case involving the offender. Such information shall be used by the secretary of corrections in determining whether placing an offender in community parenting release is in the best interests of the child.

(c) Offenders placed on community parenting release shall provide to the secretary of corrections an approved residence and living arrangement prior to transfer to home detention.

(d) The secretary of corrections shall:

(1) Require offenders placed on community parenting release to:

(A) Comply with the provisions of K.S.A. 21-6609, and amendments thereto; and

(B) participate in programming and treatment that the secretary determines is needed; and

(2) assign a parole officer to monitor the offender's compliance with conditions of community parenting release.

(e) The secretary of corrections has the authority to return any offender serving the remainder of such offender's sentence on community parenting release to a correctional facility if the offender is not complying with community parenting release requirements.

New Sec. 2. (a) All law enforcement agencies in this state shall adopt a detailed, written policy relating to the procedures to be employed when a citizen is asked to identify a person in the context of a criminal investigation.

(b) All law enforcement agencies in this state shall collaborate with the county or district attorney in the appropriate jurisdiction to adopt written policies regarding eyewitness procedures. Such policies shall be made available to all officers of such agency.

(c) Policies adopted pursuant to this section shall be implemented by all Kansas law enforcement agencies within two years after the effective date of this act. Such policies shall be available for public inspection during normal business hours.

(d) The policies adopted pursuant to this section shall include, but not be limited to, identifying the procedures the law enforcement agency should employ when asking a citizen to identify a person in the context of a criminal investigation. The procedures should include:

(1) Use of blind and blinded procedures;

(2) instructions to the witness that the perpetrator may or may not be present;

(3) use of non-suspect fillers who are reasonably similar to the perpetrator and do not make the suspect stand out; and

(4) after an identification is made by the witness, eliciting a confi-

dence statement, in the witness's own words, regarding the level of certainty in the selection.

Sec. 3. K.S.A. 2015 Supp. 22-3001 is hereby amended to read as follows: 22-3001. (a) A majority of the district judges in any judicial district may order a grand jury to be summoned in any county in the district when it is determined to be in the public interest.

(b) The district or county attorney in such attorney's county may petition the chief judge or the chief judge's designee in such district court to order a grand jury to be summoned in the designated county in the district to consider any alleged felony law violation, including any alleged misdemeanor law violation which arises as part of the same criminal conduct or investigation. The attorney general in any judicial district may petition the chief judge or the chief judge's designee in such judicial district to order a grand jury to be summoned in the designated county in the district to consider any alleged felony law violation, including any alleged misdemeanor law violation which arises as part of the same criminal conduct or investigation, if authorized by the district or county attorney in such judicial district or if jurisdiction is otherwise authorized by law. The chief judge or the chief judge's designee in the district court of the county shall then consider the petition and, if it is found that the petition is in proper form, as set forth in this subsection, shall order a grand jury to be summoned within 15 days after receipt of such petition.

(c) (1) A grand jury shall be summoned in any county within 60 days after a petition praying therefor is presented to the district court, bearing the signatures of a number of electors equal to 100 plus 2% of the total number of votes cast for governor in the county in the last preceding election.

(2) The petition, upon its face, shall state the name, address and phone number of the person filing the petition, the subject matter of the prospective grand jury, a reasonably specific identification of areas to be inquired into and sufficient general allegations to warrant a finding that such inquiry may lead to information which, if true, would warrant a true bill of indictment.

(3) The petition shall be in substantially the following form:

The undersigned qualified electors of the county of \_\_\_\_\_ and state of Kansas hereby request that the district court of \_\_\_\_\_ county, Kansas, within 60 days after the filing of this petition, cause a grand jury to be summoned in the county to investigate alleged violations of law and to perform such other duties as may be authorized by law.

The signatures to the petition need not all be affixed to one paper, but each paper to which signatures are affixed shall have substantially the foregoing form written or printed at the top thereof. Each signer shall add to such signer's signature such signer's place of residence, giving the street and number or rural route number, if any. One of the signers of

each paper shall verify upon oath that each signature appearing on the paper is the genuine signature of the person whose name it purports to be and that such signer believes that the statements in the petition are true. The petition shall be filed in the office of the clerk of the district court who shall forthwith transmit it to the county election officer, who shall determine whether the persons whose signatures are affixed to the petition are qualified electors of the county. Thereupon, the county election officer shall return the petition to the clerk of the district court, together with such election officer's certificate stating the number of qualified electors of the county whose signatures appear on the petition and the aggregate number of votes cast for all candidates for governor in the county in the last preceding election. The judge or judges of the district court of the county shall then consider the petition and, if it is found that the petition is in proper form and bears the signatures of the required number of electors, a grand jury shall be ordered to be summoned.

(4) After a grand jury is summoned pursuant to this subsection, but before it begins deliberations, the judge or judges of the district court of the county in which the petition is presented shall provide instructions to the grand jury regarding its conduct and deliberations, which instructions shall include, but not be limited to, the following:

(A) You have been impaneled as a grand jury pursuant to a citizens' petition filed in this court, signed by (insert number) qualified electors of this county, stating (insert the subject matter described in the petition, including a reasonably specific identification of the areas to be inquired into and the allegations sufficient to warrant a finding that the grand jury's inquiry may lead to information which, if true, would warrant a true bill of indictment). You are charged with making inquiry with regard to this subject matter and determining whether the facts support allegations warranting a true bill of indictment.

(B) The person filing the citizens' petition filed in this court must be the first witness you call for the purpose of presenting evidence and testimony as to the subject matter and allegations of the petition.

(C) You may, with the approval of this court, employ special counsel and investigators, and incur such other expense for services and supplies as you and this court deem necessary. Any special counsel or investigator you employ shall be selected by a majority vote of your grand jury. You may make such selection only after hearing testimony from the person who filed the citizens' petition. You may utilize the services of any special counsel or investigator you employ instead of, or in addition to, the services of the prosecuting attorney.

(D) If any witness duly summoned to appear and testify before you fails or refuses to obey, compulsory process will be issued by this court to enforce the witness' attendance.

(E) If any witness appearing before you refuses to testify or to answer any questions asked in the course of the witness' examination, you shall



communicate that fact to this court in writing, together with a statement regarding the question the witness refuses to answer. This court will determine and inform you of whether the witness is bound to answer or not. However, no witness appearing before you can be compelled to make any statement which will incriminate such witness.

(F) Any person may file a written request with the prosecuting attorney or with the foreman of the grand jury and request to testify or retestify in an inquiry before a grand jury or to appear before a grand jury. Any written request shall include a summary of such person's written testimony.

(G) At the conclusion of your inquiry and determination, you will return either a no bill of indictment or a true bill of indictment.

(d) The grand jury shall consist of 15 members and shall be drawn, qualified and summoned in the same manner as petit jurors for the district court. Twelve members thereof shall constitute a quorum. The judge or judges ordering the grand jury shall direct that a sufficient number of legally qualified persons be summoned for service as grand jurors. *In the case of grand juries impaneled pursuant to subsection (c), the judge or judges ordering the grand jury shall allow the person that filed the petition under the provisions of subsection (c)(2), and such person's attorney, to witness the instructions to the grand jury regarding its conduct and deliberations pursuant to subsection (c)(4).*

Sec. 4. K.S.A. 2015 Supp. 22-3001 is hereby repealed.

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

Approved May 12, 2016.

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## CHAPTER 88

### HOUSE BILL No. 2696

AN ACT concerning law enforcement; creating the Kansas highway patrol staffing and training fund; relating to the law enforcement training center fund and the commission on peace officers' standards and training fund; vehicle registration fees; municipal court assessments; relating to university police officers; jurisdiction; amending K.S.A. 12-4112 and K.S.A. 2015 Supp. 8-145, 12-4117, 22-2401a, 74-5619 and 76-726 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 Kansas highway patrol staffing and training fund. Moneys credited to the Kansas highway patrol staffing and training fund shall be used by the highway patrol for increasing employment and retaining personnel at the highway patrol and for no other purpose. All expenditures from the Kan-

sas highway patrol staffing and training 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 superintendent of the highway patrol.

(b) The moneys credited to the fund created in subsection (a) shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the moneys deposited in this fund shall remain intact and inviolate for the purposes set forth in this section.

New Sec. 2. In addition to any registration fee prescribed under article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, all applicants for vehicle registration shall pay at the time of registration a nonrefundable Kansas highway patrol staffing and training surcharge in the amount of \$2 for each vehicle being registered.

New Sec. 3. In addition to any registration fee prescribed under article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, all applicants for vehicle registration shall pay, at the time of registration, a nonrefundable law enforcement training center surcharge in the amount of \$1.25 for each vehicle being registered.

Sec. 4. K.S.A. 2015 Supp. 8-145 is hereby amended to read as follows: 8-145. (a) All registration and certificates of title fees shall be paid to the county treasurer of the county in which the applicant for registration resides or has an office or principal place of business within this state, and the county treasurer shall issue a receipt in triplicate, on blanks furnished by the division of vehicles, one copy of which shall be filed in the county treasurer's office, one copy shall be delivered to the applicant and the original copy shall be forwarded to the director of vehicles.

(b) The county treasurer shall deposit \$.75 of each license application, \$.75 out of each application for transfer of license plate and \$2 out of each application for a certificate of title, collected by such treasurer under this act, in a special fund, which fund is hereby appropriated for the use of the county treasurer in paying for necessary help and expenses incidental to the administration of duties in accordance with the provisions of this law and extra compensation to the county treasurer for the services performed in administering the provisions of this act, which compensation shall be in addition to any other compensation provided by any other law, except that the county treasurer shall receive as additional compensation for administering the motor vehicle title and registration laws and fees, a sum computed as follows: The county treasurer, during the month of December, shall determine the amount to be retained for extra compensation not to exceed the following amounts each year for calendar year 2006 or any calendar year thereafter: The sum of \$110 per hundred registrations for the first 5,000 registrations; the sum of \$90 per hundred registrations for the second 5,000 registrations; the sum of \$5

per hundred for the third 5,000 registrations; and the sum of \$2 per hundred registrations for all registrations thereafter. In no event, however, shall any county treasurer be entitled to receive more than \$15,000 additional annual compensation.

If more than one person shall hold the office of county treasurer during any one calendar year, such compensation shall be prorated among such persons in proportion to the number of weeks served. The total amount of compensation paid the treasurer together with the amounts expended in paying for other necessary help and expenses incidental to the administration of the duties of the county treasurer in accordance with the provisions of this act, shall not exceed the amount deposited in such special fund. Any balance remaining in such fund at the close of any calendar year shall be withdrawn and credited to the general fund of the county prior to June 1 of the following calendar year.

(c) The county treasurer shall remit the remainder of all such fees collected, together with the original copy of all applications, to the secretary of revenue. The secretary of revenue shall remit all such fees remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund, except as provided in subsection (d).

(d) (1) Three dollars and fifty cents of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the VIPs/CAMA technology hardware fund.

(2) For repossessed vehicles, \$3 of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the repossessed certificates of title fee fund.

(3) Three dollars and fifty cents of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the VIPs/CAMA technology hardware fund.

(4) Until January 1, 2013, \$4 of each division of vehicles modernization surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$4 to the division of vehicles modernization fund, on and after January 1, 2013, the state treasurer shall credit such \$4 to the state highway fund.

(5) *Two dollars of each Kansas highway patrol staffing and training surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$2 to the Kansas highway patrol staffing and training fund.*

(6) *One dollar and twenty-five cents of each law enforcement training center surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$1.25 to the law enforcement training center fund.*

Sec. 5. K.S.A. 2015 Supp. 74-5619 is hereby amended to read as follows: 74-5619. (a) (1) There is hereby created in the state treasury the law enforcement training center fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose and in the manner prescribed by law.

(2) All moneys received for assessments as provided pursuant to K.S.A. 74-5607, 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 law enforcement training center fund.

(b) There is hereby created in the state treasury the Kansas commission on peace officers' standards and training fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose of the operation of the commission to carry out its powers and duties as mandated by law. The director may apply for and receive public or private grants, gifts and donations of money for the commission. All moneys received from grants, gifts and donations shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas commission on peace officers' standards and training fund.

(c) *The moneys credited to the funds created in subsections (a) and (b) shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the moneys deposited in these funds shall remain intact and inviolate for the purposes set forth in this section.*

(d) This section shall be part of and supplemental to the Kansas law enforcement training act.

Sec. 6. K.S.A. 12-4112 is hereby amended to read as follows: 12-4112. No person shall be assessed costs for the administration of justice in any municipal court case, except for:

(a) Witness fees and mileage as set forth in K.S.A. 12-4411, and amendments thereto;

(b) ~~for the assessment required by K.S.A. 2001 Supp. 20-1a11 12-4116, and amendments thereto; for the judicial branch education fund;~~

(c) ~~for the assessment required by K.S.A. 12-4117, and amendments thereto, for the law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto, the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, and the juvenile detention facilities fund as provided in K.S.A. 12-4117, and amendments thereto; and~~

(d) ~~for the assessment required by K.S.A. 12-16,119, and amendments thereto, for the detention facility processing fee.~~

Sec. 7. K.S.A. 2015 Supp. 12-4117 is hereby amended to read as follows: 12-4117. (a) In each case filed in municipal court other than a nonmoving traffic violation, where there is a finding of guilty or a plea of guilty, a plea of no contest, forfeiture of bond or a diversion, a sum in an amount of ~~-\$20~~ \$22.50 shall be assessed and such assessment shall be credited as follows:

One dollar to the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, \$11.50 to the law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto, ~~-\$2.50~~ \$5 to the Kansas commission on peace officers' standards and training fund established by K.S.A. 74-5619, and amendments thereto, \$2 to the juvenile detention facilities fund established pursuant to K.S.A. 79-4803, and amendments thereto, to be expended for operational costs of facilities for the detention of juveniles, \$.50 to the protection from abuse fund established pursuant to K.S.A. 74-7325, and amendments thereto, \$.50 to the crime victims assistance fund established pursuant to K.S.A. 74-7334, and amendments thereto, \$1 to the trauma fund established pursuant to K.S.A. 2015 Supp. 75-5670, and amendments thereto, and \$1 to the department of corrections forensic psychologist fund established pursuant to K.S.A. 2015 Supp. 75-52,151, and amendments thereto.

(b) The judge or clerk of the municipal court shall remit the appropriate assessments received pursuant to 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 local law enforcement training reimbursement fund, the law enforcement training center fund, the Kansas commission on peace officers' standards and training fund, the juvenile detention facilities fund, the crime victims assistance fund, the trauma fund and the department of corrections forensic psychologist fund as provided in this section.

(c) For the purpose of determining the amount to be assessed according to this section, if more than one complaint is filed in the municipal

court against one individual arising out of the same incident, all such complaints shall be considered as one case.

Sec. 8. K.S.A. 2015 Supp. 22-2401a is hereby amended to read as follows: 22-2401a. (1) Law enforcement officers employed by consolidated county law enforcement agencies or departments and sheriffs and their deputies may exercise their powers as law enforcement officers:

(a) Anywhere within their county; and

(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

(2) Law enforcement officers employed by any city may exercise their powers as law enforcement officers:

(a) Anywhere within the city limits of the city employing them and outside of such city when on property owned or under the control of such city; and

(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

(3) (a) Law enforcement officers employed by a Native American Indian Tribe may exercise powers of law enforcement officers anywhere within the exterior limits of the reservation of the tribe employing such tribal law enforcement officer, subject to the following:

(i) The provisions of subsection (3)(a) shall be applicable only as long as such Native American Indian Tribe maintains in force a valid and binding agreement with an insurance carrier to provide liability insurance coverage for damages arising from the acts, errors or omissions of such tribal law enforcement agency or officer while acting pursuant to this section and waives its tribal immunity, as provided in ~~paragraph (b) of subsection (3)(b)~~, for any liability for damages arising from the acts, errors or omissions of such tribal law enforcement agency or officer while acting pursuant to this section. Such insurance policy shall: (A) (1) Be in an amount not less than \$500,000 for any one person and \$2,000,000 for any one occurrence for personal injury and \$1,000,000 for any one occurrence for property damage; (2) be in an amount not less than \$2,000,000 aggregate loss limit; and (3) carry an endorsement to provide coverage for mutual aid assistance; and (B) include an endorsement providing that the insurer may not invoke tribal sovereign immunity up to the limits of the policy set forth herein. Any insurance carrier providing to a tribe the liability insurance coverage described in this subsection shall certify to the attorney general that the tribe has in effect coverage which complies with the requirements of this subsection. Such carrier shall notify the attorney general immediately by first class mail if for any reason such coverage terminates or no longer complies with the requirements of this subsection.

(ii) The provisions of subsection (3)(a) shall be applicable only if such Native American Indian Tribe has filed with the county clerk a map clearly showing the boundaries of the Tribe's reservation as defined in this section.

(b) If a claim is brought against any tribal law enforcement agency or officer for acts committed by such agency or officer while acting pursuant to this section, such claim shall be subject to disposition as if the tribe was the state pursuant to the Kansas tort claims act, provided that such act shall not govern the tribe's purchase of insurance. The tribe shall waive its sovereign immunity solely to the extent necessary to permit recovery under the liability insurance, but not to exceed the policy limits.

(c) Nothing in this subsection (3) shall be construed to prohibit any agreement between any state, county or city law enforcement agency and any Native American Indian Tribe.

(d) Nothing in this subsection (3) shall be construed to affect the provision of law enforcement services outside the exterior boundaries of reservations so as to affect in any way the criteria by which the United States department of the interior makes a determination regarding placement of land into trust.

(e) Neither the state nor any political subdivision of the state shall be liable for any act or failure to act by any tribal law enforcement officer.

(4) University police officers employed by the chief executive officer of any state educational institution or municipal university may exercise their powers as university police officers ~~anywhere~~:

(a) On property owned, *occupied* or operated by the state educational institution or municipal university, by a board of trustees of the state educational institution, an endowment association, *an affiliated corporation*, an athletic association, a fraternity, sorority or other student group associated with the state educational institution or municipal university *or at the site of a function or academic program sponsored by the state educational institution or municipal university*;

(b) ~~on the streets, property and highways immediately adjacent to the campus of the state educational institution or municipal university and coterminous with the property described in subsection (4)(a)~~;

(c) within the city *or county* where such property as described in this subsection is located, as necessary to protect the health, safety and welfare of students and faculty of the state educational institution or municipal university, with appropriate agreement by the local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the chief executive

officer of the state educational institution or municipal university involved before such agreement may take effect; ~~and~~

(d) additionally, when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in subsection (4)(a) or (b), such officers with appropriate notification of, and coordination with, local law enforcement agencies or departments, may investigate and arrest persons for such a violation anywhere within the city where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. University police officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located. University police officers at the university of Kansas medical center may provide emergency transportation of medical supplies and transplant organs; *and*

*(e) additionally, pursuant to a written agreement between the university of Kansas hospital authority and the university of Kansas medical center, university police officers employed by the university of Kansas medical center may exercise their powers as law enforcement officers on property owned, occupied or operated by the university of Kansas health-care system or university of Kansas hospital authority as authorized by this section and K.S.A. 76-726 and 76-3314, and amendments thereto.*

(5) In addition to the areas where law enforcement officers may exercise their powers pursuant to subsection (2), law enforcement officers of any jurisdiction within Johnson or Sedgwick county may exercise their powers as law enforcement officers in any area within the respective county when executing a valid arrest warrant or search warrant, to the extent necessary to execute such warrants.

(6) In addition to the areas where university police officers may exercise their powers pursuant to subsection (4), university police officers may exercise the powers of law enforcement officers in any area outside their normal jurisdiction when a request for assistance has been made by law enforcement officers from the area for which assistance is requested.

(7) In addition to the areas where law enforcement officers may exercise their powers pursuant to subsection (2), law enforcement officers of any jurisdiction within Johnson county may exercise their powers as law enforcement officers in any adjoining city within Johnson county when any crime, including a traffic infraction, has been or is being committed by a person in view of the law enforcement officer. A law enforcement officer shall be considered to be exercising such officer's powers pursuant to subsection (2), when such officer is responding to the scene of a crime, even if such officer exits the city limits of the city employing the officer and further reenters the city limits of the city employing the officer to respond to such scene.

(8) Campus police officers employed by a community college or



school district may exercise the power and authority of law enforcement officers anywhere:

(a) On property owned, occupied or operated by the school district or community college or at the site of a function sponsored by the school district or community college;

(b) on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (8)(a);

(c) within the city or county where property described in subsection (8)(a) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved;

(d) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (8)(a) or (8)(b) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation;

(e) when in fresh pursuit of a person; and

(f) when transporting persons in custody to an appropriate facility, wherever it may be located.

(9) TAG law enforcement officers employed by the adjutant general may exercise their powers as police officers anywhere:

(a) On property owned or under the control of the Kansas national guard or any component under the command of the adjutant general;

(b) on the streets, property and highways immediately adjacent to property owned or under the control of the Kansas national guard; within the city or county where such property as described in subsection (9)(a) or (b) is located, as necessary to protect such property; or to protect the health, safety and welfare of members of the national guard, reserve or employees of the United States department of defense, the United States department of homeland security or any branch of the United States military with appropriate agreement by the local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the adjutant general be-

fore such agreement may take effect. In addition, when there is reason to believe that a violation of a state law, a county resolution or a city ordinance has occurred on property described in subsection (9)(a) or (b), after providing appropriate notification to, and coordination with, local law enforcement agencies or departments, such officers may investigate and arrest persons for such a violation anywhere within the city or county where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. TAG law enforcement officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located.

(10) Horsethief reservoir benefit district law enforcement officers may exercise the power and authority of law enforcement officers anywhere:

(a) On property owned, occupied or operated by the benefit district or at the site of a function sponsored by the benefit district;

(b) on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (10)(a);

(c) within the city or county where property described in subsection (10)(a) is located, as necessary to protect the health, safety and welfare of benefit district employees, board members, volunteers and visitors, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the governing board of the horsethief reservoir benefit district;

(d) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (10)(a) or (10)(b) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation;

(e) when in fresh pursuit of a person; and

(f) when transporting persons in custody to an appropriate facility, wherever it may be located.

(11) As used in this section:

(a) “Law enforcement officer” means: ~~(1)~~(i) Any law enforcement officer as defined in K.S.A. 22-2202, and amendments thereto; or ~~(2)~~(ii) any tribal law enforcement officer who is employed by a Native American Indian Tribe and has completed successfully the initial and any subsequent law enforcement training required under the Kansas law enforcement training act.

(b) “University police officer” means a police officer employed by the chief executive officer of: ~~(1)~~(i) Any state educational institution under the control and supervision of the state board of regents; or ~~(2)~~(ii) a municipal university.

(c) “Campus police officer” means a school security officer designated as a campus police officer pursuant to K.S.A. 72-8222, and amendments thereto.

(d) “Fresh pursuit” means pursuit, without unnecessary delay, of a person who has committed a crime, or who is reasonably suspected of having committed a crime.

(e) “Native American Indian Tribe” means the Prairie Band Potawatomi Nation, Kickapoo Tribe in Kansas, Sac and Fox Nation of Missouri and the Iowa Tribe of Kansas and Nebraska.

(f) “Reservation” means:

(i) With respect to the Iowa Tribe of Kansas and Nebraska, the reservation established by treaties with the United States concluded May 17, 1854, and March 6, 1861;

(ii) with respect to the Kickapoo Nation, the reservation established by treaty with the United States concluded June 28, 1862;

(iii) with respect to the Prairie Band Potawatomi Nation in Kansas, the reservation established by treaties with the United States concluded June 5, 1846, November 15, 1861, and February 27, 1867; and

(iv) with respect to the Sac and Fox Nation of Missouri in Kansas and Nebraska: (A) The reservation established by treaties with the United States concluded May 18, 1854, and March 6, 1861, and by acts of Congress of June 10, 1872 (17 Stat. 391), and August 15, 1876 (19 Stat. 208); and (B) the premises of the gaming facility established pursuant to the gaming compact entered into between such nation and the state of Kansas, and the surrounding parcel of land held in trust which lies adjacent to and east of U.S. Highway 75 and adjacent to and north of Kansas Highway 20, as identified in such compact.

(g) “TAG law enforcement officer” means a police officer employed by the adjutant general pursuant to K.S.A. 48-204, and amendments thereto.

(h) “Horsethief reservoir benefit district law enforcement officer” means a police officer employed by the horsethief reservoir benefit district pursuant to K.S.A. 2015 Supp. 82a-2212, and amendments thereto.

Sec. 9. K.S.A. 2015 Supp. 76-726 is hereby amended to read as follows: 76-726. (a) The chief executive officer of any state educational institution may employ university police officers to aid and supplement state and local law enforcement agencies. Such university police officers shall have the power and authority of law enforcement officers: (1) On property owned, *occupied* or operated by the state educational institution, by a board of trustees of the state educational institution, an endowment as-

sociation, *an affiliated corporation*, an athletic association, a fraternity, sorority or other student group associated with the state educational institution *or at the site of a function or academic program sponsored by the state education institution*;

(2) ~~on the streets, property and highways immediately adjacent to the campus of the state educational institution~~ *and coterminous with the property described in subsection (a)(1)*;

(3) within the city *or county* where such property as described in this subsection is located, as necessary to protect the health, safety and welfare of students and faculty of the state educational institution or municipal university, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the chief executive officer of the state educational institution or municipal university involved before such agreement may take effect; ~~and~~

(4) additionally when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in ~~provisions paragraphs~~ (1) or (2), such officers, with appropriate notification of, and coordination with, local law enforcement agencies, may investigate and arrest persons for such a violation anywhere within the city where such property, streets and highways are located. University police officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located. University police officers at the university of Kansas medical center may provide emergency transportation of medical supplies and transplant organs; *and*

(5) *additionally, pursuant to a written agreement between the university of Kansas hospital authority and the university of Kansas medical center, university police officers employed by the university of Kansas medical center may exercise their powers as law enforcement officers on property owned, occupied or operated by the university of Kansas health-care system or university of Kansas hospital authority as authorized by this section and K.S.A. 22-2401a and 76-3314, and amendments thereto.*

(b) In addition to enforcement of state law, county resolutions and city ordinances, university police officers shall enforce rules and regulations of the board of regents and rules and policies of the state educational institution, whether or not violation thereof constitutes a criminal offense. Every university police officer shall, while on duty, wear and publicly display a badge of office, except that no such badge shall be required to be worn by any plain clothes investigator or departmental administrator, but any such person shall present proper credentials and identification when required in the performance of such officer's duties. In perform-

ance of any of the powers, duties and functions authorized by this act or any other law, university police officers shall have the same rights, protections and immunities afforded to other law enforcement officers.

Sec. 10. K.S.A. 12-4112 and K.S.A. 2015 Supp. 8-145, 12-4117, 22-2401a, 74-5619 and 76-726 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 12, 2016.

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## CHAPTER 89

### HOUSE BILL No. 2632

AN ACT concerning economic development; relating to tax increment financing, eligible areas; the STAR bond financing act; base year assessed valuation, business relocations; reports to the legislature; concerning the Kansas bioscience authority; delegating authority to the state finance council to oversee any sale of the Kansas bioscience authority or substantially all of the authority's assets; amending K.S.A. 2015 Supp. 12-1770a, 12-17,162, 12-17,169, 12-17,171, 12-17,176 and 74-99b15 and repealing the existing sections.

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

Section 1. K.S.A. 2015 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 *or a building or buildings which are 65 years of age or older and any contiguous vacant or condemned lots.*

(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 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 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 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 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. 2015 Supp. 72-6470, 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 installation 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 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 mu-

nicipality 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, created 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 K.S.A. 2015 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. 2. K.S.A. 2015 Supp. 12-17,162 is hereby amended to read as follows: 12-17,162. As used in ~~this the STAR bond financing act, and amendments thereto,~~ the following words and phrases shall have the following meanings unless a different meaning clearly appears from the context:

(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) “Commence work” means the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

(c) “De minimus” means an amount less than 15% of the land area within a STAR bond project district.

(d) “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.

(e) “Economic impact study” means a study to project the financial benefit of the project to the local, regional and state economies.

(f) “Eligible area” means a historic theater, major tourism area, major motorsports complex, auto race track facility, river walk canal facility,

major multi-sport athletic complex, or a major commercial entertainment and tourism area as determined by the secretary.

(g) “Feasibility study” means a feasibility study as defined in ~~subsection (b) of K.S.A. 2015 Supp. 12-17,166(b)~~, and amendments thereto.

(h) “Historic theater” means a building constructed prior to 1940 which was constructed for the purpose of staging entertainment, including motion pictures, vaudeville shows or operas, that is operated by a nonprofit corporation and is designated by the state historic preservation officer as eligible to be on the Kansas register of historic places or is a member of the Kansas historic theatre association.

(i) “Historic theater sales tax increment” means the amount of state and local sales tax revenue imposed pursuant to K.S.A. 12-187 et seq., 79-3601 et seq. and 79-3701 et seq., and amendments thereto, collected from taxpayers doing business within the historic theater that is in excess of the amount of such taxes collected prior to the designation of the building as a historic theater for purposes of this act.

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

(k) “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.

(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) “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.

(n) “Market study” means a study to determine the ability of the project to gain market share locally, regionally and nationally and the ability of the project to gain sufficient market share to:

- (1) Remain profitable past the term of repayment; and
- (2) maintain status as a significant factor for travel decisions.
- (o) “Market impact study” means a study to measure the impact of the proposed project on similar businesses in the project’s market area.
- (p) “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.
- (q) “Project” means a STAR bond project.
- (r) “Project costs” means those costs necessary to implement a STAR bond project plan, including costs incurred for:
  - (1) Acquisition of real property within the STAR bond project area;
  - (2) payment of relocation assistance pursuant to a relocation assistance plan as provided in K.S.A. 2015 Supp. 12-17,173, and amendments thereto;
  - (3) site preparation including utility relocations;
  - (4) sanitary and storm sewers and lift stations;
  - (5) drainage conduits, channels, levees and river walk canal facilities;
  - (6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
  - (7) street light fixtures, connection and facilities;
  - (8) underground gas, water, heating and electrical services and connections located within the public right-of-way;
  - (9) sidewalks and pedestrian underpasses or overpasses;
  - (10) drives and driveway approaches located within the public right-of-way;
  - (11) water mains and extensions;
  - (12) plazas and arcades;
  - (13) parking facilities and multilevel parking structures devoted to parking only;
  - (14) landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities;
  - (15) auto race track facility;
  - (16) major multi-sport athletic complex;
  - (17) museum facility;
  - (18) major motorsports complex;
  - (19) related expenses to redevelop and finance the project, except that for a STAR bond project financed with special obligation bonds payable from the revenues described in ~~subsection (a)(1) of K.S.A. 2015~~

Supp. 12-17,169(a)(1), and amendments thereto, such expenses shall require prior approval by the secretary of commerce; and

(20) except as specified in ~~subsections~~ *paragraphs* (1) through (19) above, project costs shall not include:

(A) Costs incurred in connection with the construction of buildings or other structures;

(B) 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 STAR bond project district;

(C) salaries for local government employees;

(D) moving expenses for employees of the businesses locating within the STAR bond project district;

(E) property taxes for businesses that locate in the STAR bond project district;

(F) lobbying costs;

(G) any bond origination fee charged by the city or county;

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

(I) travel, entertainment and hospitality.

(s) “Projected market area” means any area within the state in which the project is projected to have a substantial fiscal or market impact upon businesses in such area.

(t) “River walk canal facilities” means a canal and related water features which flow through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited to, pedestrian walkways and promenades, landscaping and parking facilities.

(u) “Sales tax and revenue” are those revenues available to finance the issuance of special obligation bonds as identified in K.S.A. 2015 Supp. 12-17,168, and amendments thereto.

(v) “STAR bond” means a sales tax and revenue bond.

(w) “STAR bond project” means an approved project to implement a project plan for the development of the established STAR bond project district with:

(1) At least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales; or

(2) for areas outside of metropolitan statistical areas, as defined by the federal office of management and budget, the secretary finds:

(A) The project is an eligible area as defined in subsection (f), and amendments thereto; and

(B) would be of regional or statewide importance; or

(3) is a major tourism area as defined in subsection (l), and amendments thereto; or

(4) is a major motorsports complex, as defined in subsection (k), ~~and amendments thereto.~~

(x) “STAR bond project area” means the geographic area within the STAR bond project district in which there may be one or more projects.

(y) “STAR bond project district” means the specific area declared to be an eligible area as determined by the secretary in which the city or county may develop one or more STAR bond projects. A STAR bond project district includes a redevelopment district, as defined in K.S.A. 12-1770a, and amendments thereto, created prior to the effective date of this act for the Wichita Waterwalk project in Wichita, Kansas, provided, the city creating such redevelopment district submits an application for approval for STAR bond financing to the secretary on or before July 31, 2007, and receives a final letter of determination from the secretary approving or disapproving the request for STAR bond financing on or before November 1, 2007. *No STAR bond project district shall include real property which has been part of another STAR bond project district unless such STAR bond project and STAR bond project district have been approved by the secretary of commerce pursuant to K.S.A. 2015 Supp. 12-17,164 and 12-17,165, and amendments thereto, prior to March 1, 2016. A STAR bond project district shall be limited to those areas being developed by the STAR bond project and any area of real property reasonably anticipated to directly benefit from the redevelopment project.*

(z) “STAR bond project district plan” means the preliminary plan that identifies all of the proposed STAR bond 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 STAR bond project area.

(aa) “STAR bond project plan” means the plan adopted by a city or county for the development of a STAR bond project or projects in a STAR bond project district.

(bb) “Secretary” means the secretary of commerce.

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

(dd) “Tax increment” means that portion of the revenue derived from state and local sales, use and transient guest tax imposed pursuant to K.S.A. 12-187 et seq., 12-1692 et seq., 79-3601 et seq. and 79-3701 et seq., and amendments thereto, collected from taxpayers doing business within that portion of a STAR bond project district occupied by a project that is in excess of the amount of base year revenue. For purposes of this subsection, the base year shall be the 12-month period immediately prior to the month in which the STAR bond project district is established. The department of revenue shall determine base year revenue by reference to the revenue collected during the base year from taxpayers doing business within the specific area in which a STAR bond project district is



subsequently established. *The base year of a STAR bond project district, following the addition of area to the STAR bond project district, shall be the base year for the original area, and with respect to the additional area, the base year shall be any 12-month period immediately prior to the month in which additional area is added to the STAR bond project district.* For purposes of this subsection, revenue collected from taxpayers doing business within a STAR bond project district, or within a specific area in which a STAR bond project district is subsequently established shall not include local sales and use tax revenue that is sourced to jurisdictions other than those in which the project is located. *The secretary of revenue and the secretary of commerce shall certify the appropriate amount of base year revenue for taxpayers relocating from within the state into a STAR bond district.*

(ee) “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.

Sec. 3. K.S.A. 2015 Supp. 12-17,169 is hereby amended to read as follows: 12-17,169. (a) (1) Any city or county shall have the power to issue special obligation bonds in one or more series to finance the undertaking of any STAR bond project in accordance with the provisions of this act. Such special obligation bonds shall be made payable, both as to principal and interest:

(A) From revenues of the city or county derived from or held in connection with the undertaking and carrying out of any STAR bond project or projects under this act including historic theater sales tax increments;

(B) from any private sources, contributions or other financial assistance from the state or federal government;

(C) from a pledge of 100% of the tax increment revenue received by the city from any local sales and use taxes, including the city’s share of any county sales tax, which are collected from taxpayers doing business within that portion of the city’s STAR bond project district established pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, occupied by a STAR bond project, except for amounts committed to other uses by election of voters or pledged to bond repayment prior to the approval of the STAR bond project;

(D) at the option of the county in a city STAR bond project district, from a pledge of all of the tax increment revenues received by the county from any local sales and use taxes which are collected from taxpayers doing business within that portion of the city’s STAR bond project district established pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, except for amounts committed to other uses by election of voters

or pledged to bond repayment prior to the approval of a STAR bond project;

(E) in a county STAR bond project district, from a pledge of 100% of the tax increment revenue received by the county from any county sales and use tax, but excluding any portions of such taxes that are allocated to the cities in such county pursuant to K.S.A. 12-192, and amendments thereto, which are collected from taxpayers doing business within that portion of the county's STAR bond project district established pursuant to K.S.A. 2015 Supp. 12-17,165, and amendments thereto, occupied by a STAR bond project;

(F) from a pledge of all *or a portion* of the tax increment revenue received from any state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond project district occupied by a STAR bond project, *except that for any STAR bond project district established and approved by the secretary on or after January 1, 2017, such tax increment shall not include any sales tax revenue from retail automobile dealers;*

(G) at the option of the city or county and with approval of the secretary, from all or a portion of the transient guest tax of such city or county;

(H) at the option of the city or county and with approval of the secretary: (i) From a pledge of all or a portion of increased revenue received by the city or county from franchise fees collected from utilities and other businesses using public right-of-way within the STAR bond project district; or (ii) from a pledge of all or a portion of the revenue received by a city or county from local sales taxes or local transient guest and local use taxes; or

(I) by any combination of these methods.

The city or county may pledge such revenue to the repayment of such special obligation bonds prior to, simultaneously with, or subsequent to the issuance of such special obligation bonds.

(2) Bonds issued under ~~paragraph (1) of this subsection (a)(1)~~ shall not be general obligations of the city or the county, nor in any event shall they give rise to a charge against its general credit or taxing powers, or be payable out of any funds or properties other than any of those set forth in ~~paragraph (1) of this subsection (a)(1)~~ and such bonds shall so state on their face.

(3) Bonds issued under the provisions of ~~paragraph (1) of this subsection (a)(1)~~ shall be special obligations of the city or county and are declared to be negotiable instruments. Such bonds shall be executed by the mayor and clerk of the city or the chairperson of the board of county commissioners and the county clerk and sealed with the corporate seal of the city or county. All details pertaining to the issuance of such special obligation bonds and terms and conditions thereof shall be determined by ordinance of the city or by resolution of the county.

All special obligation bonds issued pursuant to this act and all income or interest therefrom shall be exempt from all state taxes. Such special obligation bonds shall contain none of the recitals set forth in K.S.A. 10-112, and amendments thereto. Such special obligation bonds shall, however, contain the following recitals: (i) The authority under which such special obligation bonds are issued; (ii) such bonds are in conformity with the provisions, restrictions and limitations thereof; and (iii) that such special obligation bonds and the interest thereon are to be paid from the money and revenue received as provided in ~~paragraph (1) of this subsection (a)(1).~~

(4) Any city or county issuing special obligation bonds under the provisions of this act may refund all or part of such issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(b) (1) Subject to the provisions of ~~paragraph (2) of this subsection (b)(2),~~ any city shall have the power to issue full faith and credit tax increment bonds to finance the undertaking, establishment or redevelopment of any major motorsports complex, as defined in ~~subsection (k) of K.S.A. 2015 Supp. 12-17,162(k),~~ and amendments thereto. Such full faith and credit tax increment bonds shall be made payable, both as to principal and interest: (A) From the revenue sources identified in ~~paragraph (1) of subsection (a)(1)~~ or by any combination of these sources; and (B) subject to the provisions of ~~paragraph (2) of this subsection (b)(2),~~ from a pledge of the city's full faith and credit to use its ad valorem taxing authority for repayment thereof in the event all other authorized sources of revenue are not sufficient.

(2) Except as provided in ~~paragraph (3) of this subsection (b)(3),~~ before the governing body of any city proposes to issue full faith and credit tax increment bonds as authorized by this subsection, the feasibility study required by ~~subsection (b) of K.S.A. 2015 Supp. 12-17,166(b),~~ and amendments thereto, shall demonstrate that the benefits derived from the project will exceed the cost and that the income therefrom will be sufficient to pay the costs of the project. No full faith and credit tax increment bonds shall be issued unless the governing body states in the resolution required by ~~subsection (c) of K.S.A. 2015 Supp. 12-17,166(e),~~ and amendments thereto, that it may issue such bonds to finance the proposed STAR bond project. The governing body may issue the bonds unless within 60 days following the conclusion of the public hearing on the proposed STAR bond project plan a protest petition signed by 3% of the qualified voters of the city is filed with the city clerk in accordance with the provisions of K.S.A. 25-3601 et seq., and amendments thereto. If a sufficient petition is filed, no full faith and credit tax increment bonds shall be issued until the issuance of the bonds is approved by a majority of the voters voting at an election thereon. Such election shall be called and held in the manner provided by the general bond law. The failure of the voters to approve the issuance of full faith and credit tax increment

bonds shall not prevent the city from issuing special obligation bonds in accordance with this section. No such election shall be held in the event the board of county commissioners or the board of education determines, as provided in K.S.A. 2015 Supp. 12-17,165, and amendments thereto, that the proposed STAR bond project district will have an adverse effect on the county or school district.

(3) As an alternative to ~~paragraph (2) of this subsection (b)(2)~~, any city which adopts a STAR bond project plan for a major motorsports complex, but does not state its intent to issue full faith and credit tax increment bonds in the resolution required by ~~subsection (c) of K.S.A. 2015 Supp. 12-17,166(e)~~, and amendments thereto, and has not acquired property in the STAR bond project area may issue full faith and credit tax increment bonds if the governing body of the city adopts a resolution stating its intent to issue the bonds and the issuance of the bonds is approved by a majority of the voters voting at an election thereon. Such election shall be called and held in the manner provided by the general bond law. The failure of the voters to approve the issuance of full faith and credit tax increment bonds shall not prevent the city from issuing special obligation bonds pursuant to ~~paragraph (1) of subsection (a)(1)~~. Any project plan adopted by a city prior to the effective date of this act in accordance with K.S.A. 12-1772, and amendments thereto, shall not be invalidated by any requirements of this act.

(4) During the progress of any major motorsports complex project in which the project costs will be financed, in whole or in part, with the proceeds of full faith and credit tax increment bonds, the city may issue temporary notes in the manner provided in K.S.A. 10-123, and amendments thereto, to pay the project costs for the major motorsports complex project. Such temporary notes shall not be issued and the city shall not acquire property in the STAR bond project area until the requirements of ~~paragraph (2) or (3) of this subsection (b)(2) or (b)(3)~~, whichever is applicable, have been met.

(5) Full faith and credit tax increment bonds issued under this subsection shall be general obligations of the city and are declared to be negotiable instruments. Such bonds shall be issued in accordance with the general bond law. All such bonds and all income or interest therefrom shall be exempt from all state taxes. The amount of the full faith and credit tax increment bonds issued and outstanding which exceeds 3% of the assessed valuation of the city shall be within the bonded debt limit applicable to such city.

(6) Any city issuing full faith and credit tax increment bonds under the provisions of this subsection may refund all or part of such issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(c) (1) For each project financed with special obligation bonds payable from the revenues described in subsection (a)(1), the city or county shall prepare and submit to the secretary by October 1 of each year, a

report describing the status of any projects within such STAR bond project area, any expenditures of the proceeds of special obligation bonds that have occurred since the last annual report and any expenditures of the proceeds of such bonds expected to occur in the future, including the amount of sales tax revenue, how such revenue has been spent, the projected amount of such revenue and the anticipated use of such revenue. The department of commerce shall compile this information and submit a report annually to the governor and the legislature by February 1 of each year.

(2) (A) *In addition to the report referenced in paragraph (1), the department of commerce, in cooperation with the department of revenue, shall submit a report to the senate commerce committee and the house commerce, labor and economic development committee by January 31 of each session. The report shall include the following information for the last three calendar years and the most current year-to-date information available with respect to each star bond district:*

(i) *The amount of sales tax collected, and the amount of any “base” sales taxes being allocated to the district;*

(ii) *the total amount of bond payments and other expenses incurred;*

(iii) *the total amount of bonds issued and the balance of the bonds, by district and by project in the district;*

(iv) *the remaining cash balance in the project to pay future debt service and other expenses;*

(v) *any new income producing properties being brought into a district and the base revenue going to the state general fund and incremental sales tax increases going to the district with respect to such properties;*

(vi) *the amount of bonds issued to repay private investors in the project with calculations showing the private and state share of indebtedness;*

(vii) *the percentage of local effort sales tax actually committed to the district compared to the state’s share of sales tax percentage committed to the district;*

(viii) *the number of out-of-state visitors to a project, a discussion of the visitor attraction properties of projects in the districts, and a comparison of the number of out-of-state visitors with the number of in-state visitors; and*

(ix) *if any information or data is not available, an explanation as to why it is not available.*

(B) *Either the senate commerce committee or the house committee on commerce, labor and economic development may amend the information required in the report with additional requests and clarification on a going forward basis.*

(d) A city or county may use the proceeds of special obligation bonds or any uncommitted funds derived from sources set forth in this section to pay the bond project costs as defined in K.S.A. 2015 Supp. 12-17,162, and amendments thereto, to implement the STAR bond project plan.

(e) With respect to a STAR bond project district established prior to January 1, 2003, for which, prior to January 1, 2003, the secretary made a finding as provided in subsection (a) ~~of this section~~ that a STAR bond project would create a major tourism area for the state, such special obligation bonds shall be payable both as to principal and interest, from a pledge of all of the revenue from any transient guest, state and local sales and use taxes collected from taxpayers as provided in subsection (a) ~~of this section~~ whether or not revenues from such taxes are received by the city.

Sec. 4. K.S.A. 2015 Supp. 12-17,171 is hereby amended to read as follows: 12-17,171. (a) Any addition of area to the STAR bond project district, or any substantial change as defined in K.S.A. 2015 Supp. 12-17,162, and amendments thereto, to the STAR bond project district plan shall be subject to the same procedure for public notice and hearing as is required for the establishment of the STAR bond project district. *Any such addition of area shall be limited to real property which has not been part of another STAR bond project district. The base year of a STAR bond project district, following the addition of area to the STAR bond project district, shall be the base year for the original area, and with respect to the additional area, the base year shall be any 12-month period immediately prior to the month in which additional area is added to the STAR bond project district.*

(b) A city or county may remove real property from a STAR bond project district by an ordinance or resolution of the governing body respectively.

(c) A city or county may divide the real property in a STAR bond project district, including real property in different project areas within a STAR bond project district, into separate STAR bond project districts. Any division of real property within a STAR bond project district into more than one STAR bond project district shall be subject to the same procedure of public notice and hearing as is required for the establishment of the STAR bond project district.

(d) *Subject to the provisions of subsection (a)*, if a city or county has undertaken a STAR bond project within a STAR bond project district, and either the city or county wishes to subsequently remove more than a de minimus amount of real property from the STAR bond project district, or the city or county wishes to subsequently divide the real property in the STAR bond project district into more than one STAR bond project district, then prior to any such removal or division the city or county must provide a feasibility study which shows that the tax revenue from the resulting STAR bond project district within which the STAR bond project is located is expected to be sufficient to pay the project costs.

(e) Removal of real property from one STAR bond project district and addition of all or a portion of that real property to another STAR

bond project district may be accomplished by the adoption of an ordinance or resolution, and in such event the determination of the existence or nonexistence of an adverse effect on the county or school district under ~~subsection (f) of~~ K.S.A. 2015 Supp. 12-17,165(f), and amendments thereto, shall apply to both such removal and such addition of real property to a STAR bond project district.

Sec. 5. K.S.A. 2015 Supp. 12-17,176 is hereby amended to read as follows: 12-17,176. (a) STAR bond projects using state sales tax financing pursuant to K.S.A. 2015 Supp. 12-17,169, and amendments thereto, shall be audited by an independent certified public accountant annually at the expense of the city or county. The audit report shall supplement the annual report required pursuant to K.S.A. 2015 Supp. 12-17,169, and amendments thereto.

(b) Such audits shall determine whether bond financing obtained under K.S.A. 2015 Supp. 12-17,169, and amendments thereto, is being used only for authorized purposes. Audit results shall be reported to the house *commerce, labor and economic development and tourism* committee, the senate commerce committee, or successor committees, the governor and the secretaries of commerce and revenue during the legislative session immediately following the audit.

(c) If audit findings indicate that bond funds have been used for unauthorized or ineligible purposes, the city or county shall repay to the bond fund all such unauthorized or ineligible expenditures. Such city or county shall enter into a repayment agreement with the secretary of revenue specifying the terms of such repayment obligation.

Sec. 6. K.S.A. 2015 Supp. 74-99b15 is hereby amended to read as follows: 74-99b15. Nothing in this act should be construed as allowing the board to sell the authority or substantially all of the assets of the authority, or to merge the authority with another institution, without prior legislative authorization by statute. *This authorization may be provided 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 K.S.A. 75-3711c(c), and amendments thereto, except that such approval also may be given while the legislature is in session.*

Sec. 7. K.S.A. 2015 Supp. 12-1770a, 12-17,162, 12-17,169, 12-17,171, 12-17,176 and 74-99b15 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 12, 2016.

Published in the *Kansas Register* May 19, 2016.

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