

STATE OF KANSAS

**2016 SESSION LAWS
OF KANSAS
VOL. 2**

INCLUDES 2016 SPECIAL SESSION

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This volume consists of two separate sections. The first section contains information from the 2016 Session of the Kansas Legislature. The second section contains information from the 2016 Special Session of the Kansas Legislature. A separate index was compiled for each session.

AUTHENTICATION

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)

AUTHENTICATION

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 special session of the Legislature of the State of Kansas, begun on the 23rd day of June, A.D. 2016, and concluded on the 24th day of June, A.D. 2016.

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

KRIS W. KOBACH,
Secretary of State

(SEAL)

EXPLANATORY NOTES

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.

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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CHAPTER 90

HOUSE BILL No. 2462

AN ACT concerning crimes, punishment and criminal procedure; relating to possession of controlled substances; theft; burglary; amending K.S.A. 2015 Supp. 21-5706, 21-5801, 21-5807 and 21-6804 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 21-5706 is hereby amended to read as follows: 21-5706. (a) It shall be unlawful for any person to possess any opiates, opium or narcotic drugs, or any stimulant designated in ~~subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107(d)(1), (d)(3) or (f)(1),~~ and amendments thereto, or a controlled substance analog thereof.

(b) It shall be unlawful for any person to possess any of the following controlled substances or controlled substance analogs thereof:

(1) Any depressant designated in ~~subsection (e) of K.S.A. 65-4105(e), subsection (e) of K.S.A. 65-4107(e), subsection (b) or (c) of K.S.A. 65-4109(b) or (c) or subsection (b) of K.S.A. 65-4111(b),~~ and amendments thereto;

(2) any stimulant designated in ~~subsection (f) of K.S.A. 65-4105(f), subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107(d)(2), (d)(4), (d)(5) or (f)(2) or subsection (e) of K.S.A. 65-4109(e),~~ and amendments thereto;

(3) any hallucinogenic drug designated in ~~subsection (d) of K.S.A. 65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of K.S.A. 65-4109(g),~~ and amendments thereto;

(4) any substance designated in ~~subsection (g) of K.S.A. 65-4105(g) and subsection (e), (d), (e), (f) or (g) of K.S.A. 65-4111(c), (d), (e), (f) or (g),~~ and amendments thereto;

(5) any anabolic steroids as defined in ~~subsection (f) of K.S.A. 65-4109(f),~~ and amendments thereto;

(6) any substance designated in K.S.A. 65-4113, and amendments thereto; or

(7) any substance designated in ~~subsection (h) of K.S.A. 65-4105(h),~~ and amendments thereto.

(c) (1) Violation of subsection (a) is a drug severity level 5 felony, ~~and~~

(2) *Except as provided in subsection (c)(3):*

(A) Violation of subsection (b) is a class A nonperson misdemeanor, except as provided in subsection (c)(2)(B); and

(B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug severity level 5 felony if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense if the substance involved was 3, 4-methylenedioxymethamphetamine (MDMA), marijuana as designated in ~~subsection (d) of K.S.A. 65-4105(d),~~ and amendments

thereto, or any substance designated in ~~subsection (h)~~ of K.S.A. 65-4105(h), and amendments thereto, or an analog thereof.

(3) *If the substance involved is marijuana, as designated in K.S.A. 65-4105(d), and amendments thereto, violation of subsection (b) is a:*

(A) *Class B nonperson misdemeanor, except as provided in (c)(3)(B) and (c)(3)(C);*

(B) *class A nonperson misdemeanor if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense; and*

(C) *drug severity level 5 felony if that person has two or more prior convictions under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense.*

(d) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance or controlled substance analog.

Sec. 2. K.S.A. 2015 Supp. 21-5801 is hereby amended to read as follows: 21-5801. (a) Theft is any of the following acts done with intent to permanently deprive the owner of the possession, use or benefit of the owner's property or services:

(1) Obtaining or exerting unauthorized control over property or services;

(2) obtaining control over property or services, by deception;

(3) obtaining control over property or services, by threat;

(4) obtaining control over stolen property or services knowing the property or services to have been stolen by another; or

(5) knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment without making payment for the motor fuel.

(b) Theft of:

(1) Property or services of the value of \$100,000 or more is a severity level 5, nonperson felony;

(2) property or services of the value of at least \$25,000 but less than \$100,000 is a severity level 7, nonperson felony;

(3) property or services of the value of at least ~~\$1,000~~ \$1,500 but less than \$25,000 is a severity level 9, nonperson felony, except as provided in subsection (b)(7);

(4) property or services of the value of less than ~~\$1,000~~ \$1,500 is a

class A nonperson misdemeanor, except as provided in subsection (b)(5), (b)(6) or (b)(7);

(5) property of the value of less than ~~-\$1,000~~ \$1,500 from three separate mercantile establishments within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct is a severity level 9, nonperson felony;

(6) property of the value of *at least \$50 but* less than ~~-\$1,000~~ \$1,500 is a severity level 9, nonperson felony if committed by a person who has, *within five years immediately preceding commission of the crime, excluding any period of imprisonment*, been convicted of theft two or more times; and

(7) property which is a firearm of the value of less than \$25,000 is a severity level 9, nonperson felony.

(c) As used in this section:

(1) “Conviction” or “convicted” includes being convicted of a violation of K.S.A. 21-3701, prior to its repeal, this section or a municipal ordinance which prohibits the acts that this section prohibits;

(2) “regulated scrap metal” means the same as in K.S.A. 2015 Supp. 50-6,109, and amendments thereto; and

(3) “value” means the value of the property or, if the property is regulated scrap metal, the cost to restore the site of the theft of such regulated scrap metal to its condition at the time immediately prior to the theft of such regulated scrap metal, whichever is greater.

Sec. 3. K.S.A. 2015 Supp. 21-5807 is hereby amended to read as follows: 21-5807. (a) Burglary is, without authority, entering into or remaining within any:

(1) Dwelling, with intent to commit a felony, theft or sexually motivated crime therein;

(2) building, manufactured home, mobile home, tent or other structure which is not a dwelling, with intent to commit a felony, theft or sexually motivated crime therein; or

(3) vehicle, aircraft, watercraft, railroad car or other means of conveyance of persons or property, with intent to commit a felony, theft or sexually motivated crime therein.

(b) Aggravated burglary is, without authority, entering into or remaining within any:

(1) *Dwelling in which there is a human being, with intent to commit a felony, theft or sexually motivated crime therein;*

(2) *building, manufactured home, mobile home, tent or other structure which is not a dwelling in which there is a human being, with intent to commit a felony, theft or sexually motivated crime therein;* or

(3) ~~any~~ vehicle, aircraft, watercraft, railroad car or other means of

conveyance of persons or property in which there is a human being with intent to commit a felony, theft or sexually motivated crime therein.

(c) (1) Burglary as defined in:

~~(A) Subsection (a)(1) is a severity level 7, person felony, except as provided in subsection (c)(2);~~

~~(B) subsection (a)(2) is a severity level 7, nonperson felony, except as provided in subsection (c)(2);~~

~~(C) subsection (a)(3) is a severity level 9, nonperson felony, except as provided in subsection (c)(2); and~~

~~(2) subsection (a)(1), (a)(2) or (a)(3) with the intent to commit the theft of a firearm is a severity level 5, nonperson felony.~~

~~(A) (i) Subsection (a)(1) or (a)(2) is a severity level 7, nonperson felony, except as provided in subsection (c)(1)(B); and~~

~~(ii) subsection (a)(3) is a severity level 9, nonperson felony, except as provided in subsection (c)(1)(B); and~~

~~(B) (i) subsection (a)(1), with intent to commit the theft of a firearm, is a severity level 5, person felony; and~~

~~(ii) subsection (a)(2) or (a)(3), with intent to commit the theft of a firearm, is a severity level 5, nonperson felony.~~

~~(3)(2) Aggravated burglary as defined in:~~

~~(A) Subsection (b)(1) is a severity level 4, person felony; and~~

~~(B) subsection (b)(2) or (b)(3) is a severity level 5, person felony.~~

~~(d) As used in this section, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant’s sexual gratification.~~

~~(e) This section shall not apply to any person entering into or remaining in a retail or commercial premises at any time that it is open to the public after having received a personal communication from the owner or manager of such premises not to enter such premises pursuant to K.S.A. 2015 Supp. 21-5808, and amendments thereto, except when such person is entering into or remaining in such premises with the intent to commit a person felony or sexually motivated crime therein.~~

Sec. 4. K.S.A. 2015 Supp. 21-6804 is hereby amended to read as follows: 21-6804. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 30
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	6 5 4

LEGEND	
	Presumptive Probation
	Presumptive No Probation
	Presumptive Imprisonment

(b) Sentences expressed in the sentencing guidelines grid for non-drug crimes represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to the sentencing court's discretion to enter a departure sentence. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:

(A) Prison sentence;

(B) maximum potential reduction to such sentence as a result of good time; and

(C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the:

(A) Prison sentence; and

(B) duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence as provided in subsection (q).

(g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or a violation of K.S.A. 2015 Supp. 21-5412(d), and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(i) (1) The sentence for the violation of the felony provision of K.S.A. 2015 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, K.S.A. 2015 Supp. 21-5414(b)(3), K.S.A. 2015 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2015 Supp. 21-6412 and K.S.A. 2015 Supp. 21-6416, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 2015 Supp. 21-6807, and amendments thereto.

(2) If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 2015 Supp. 21-6807, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 2015 Supp. 21-5823, and amendments thereto.

(3) Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 2015 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, K.S.A. 2015 Supp. 21-5414(b)(3), K.S.A. 2015 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2015 Supp. 21-6412 and K.S.A. 2015 Supp. 21-6416, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 2015 Supp. 8-1025 or K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review. Prior to imposing any sentence pursuant to this subsection, the court may consider assigning the defendant to a house arrest program pursuant to K.S.A. 2015 Supp. 21-6609, and amendments thereto.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who:

(A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(A)(i) has at

least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B) (i) has been convicted of rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2015 Supp. 21-5503, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(B)(i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) (1) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(2) As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities:

(A) The commission of one or more person felonies; or

(B) the commission of felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; and

(C) its members have a common name or common identifying sign or symbol; and

(D) its members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of K.S.A. 2015 Supp. 21-5807(a)(1), and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2015 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-3715(a) or (b), prior to its repeal, 21-3716, prior to its repeal, K.S.A. 2015 Supp. 21-5807(a)(1) or (a)(2), or K.S.A. 2015 Supp. 21-5807(b), and

amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or K.S.A. 2015 Supp. 21-5913(a)(2), and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence as provided in subsection (q).

(n) The sentence for a violation of criminal deprivation of property, as defined in K.S.A. 2015 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, and when such person being sentenced has any combination of two or more prior convictions of K.S.A. 21-3705(b), prior to its repeal, or of criminal deprivation of property, as defined in K.S.A. 2015 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(o) The sentence for a felony violation of theft of property as defined in K.S.A. 2015 Supp. 21-5801, and amendments thereto, or burglary as defined in K.S.A. 2015 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as defined in K.S.A. 2015 Supp. 21-5801, and amendments thereto, or burglary as defined in K.S.A. 2015 Supp. 21-5807(a), and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A. 2015 Supp. 21-5801, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2015 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2015 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of burglary as defined in K.S.A. 2015 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2015 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2015 Supp. 21-5807, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of K.S.A. 2015 Supp. 21-6824(f)(1), and amendments thereto, shall apply to a defendant sentenced under this subsection. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(p) The sentence for a felony violation of theft of property as defined in K.S.A. 2015 Supp. 21-5801, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2015 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2015 Supp. 21-5807, and amendments thereto; or the sentence for a violation of burglary as defined in K.S.A. 2015 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2015 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2015 Supp. 21-5807, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(q) As used in this section, an “optional nonprison sentence” is a sentence which the court may impose, in lieu of the presumptive sentence, upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(r) The sentence for a violation of K.S.A. 2015 Supp. 21-5413(c)(2), and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(s) The sentence for a violation of K.S.A. 2015 Supp. 21-5512, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(t) (1) If the trier of fact makes a finding that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months’ imprisonment.

(2) The sentence imposed pursuant to subsection (t)(1) shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) As used in this subsection, “ballistic resistant material” means: (A) Any commercially produced material designed with the purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and kevlar vests; and (B) any homemade or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.

(u) The sentence for a violation of K.S.A. 2015 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2015 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2015 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(v) The sentence for a third or subsequent violation of K.S.A. 8-1568, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(w) The sentence for aggravated criminal damage to property as defined in K.S.A. 2015 Supp. 21-5813(b), and amendments thereto, when such person being sentenced has a prior conviction for any nonperson felony shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(x) *The sentence for a violation of K.S.A. 2015 Supp. 21-5807(a)(1), and amendments thereto, shall be presumptive imprisonment if the offense under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such sentence shall not be considered a departure and shall not be subject to appeal.*

Sec. 5. K.S.A. 2015 Supp. 21-5706, 21-5801, 21-5807 and 21-6804 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 13, 2016.

CHAPTER 91

HOUSE BILL No. 2456

AN ACT concerning state boards; relating to the state board of cosmetology; state board of barbering; powers, duties and functions thereof; regulation of tanning facilities; regulation of barbering; amending K.S.A. 65-1810, 65-1812, 65-1819, 65-1820a and 2015 Supp. 65-1824 and repealing the existing sections.

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

New Section 1. (a) No tanning facility shall provide access to a tanning device for any person under 18 years of age.

(b) In addition to the board's authority to impose discipline pursuant to K.S.A. 65-1920, and amendments thereto, the board shall have the authority to assess a fine not in excess of \$250 against a licensee for each violation. Such fine may be assessed in lieu of or in addition to such discipline.

(c) The board shall adopt rules and regulations as necessary to effectuate the provisions of this section. Such rules and regulations shall be adopted no later than January 1, 2017.

New Sec. 2. K.S.A. 65-1920 through 65-1929 and section 1, and

amendments thereto, shall be known and may be cited as the Kansas tanning facilities act.

Sec. 3. K.S.A. 65-1810 is hereby amended to read as follows: 65-1810.

(a) No barber school or barber college shall be approved by the board unless:

(1) The school or college requires, as a prerequisite to graduation, a course of instruction of not less than *1,200 hours and not more than 1,500 hours, as prescribed in rules and regulations by the board*, to be completed within 18 months of not more than eight hours in any one working day;

(2) the course of instruction required by the school or college includes scientific fundamentals of barbering; hygiene; histology of the hair and skin; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; massages and manipulations of the muscles of the scalp, skin and neck; cutting, shaving, arranging, perming, waving, curling, coloring, bleaching, tinting and dyeing the hair; and barbering practices for all major ethnic groups residing in the state;

(3) all instructors of the school or college have been licensed practicing barbers ~~for not less than three years~~ and hold instructors licenses; and

(4) no practice or policy of discrimination is in effect against applicants for admission to the school or college by reason of race, religion, color, national origin or ancestry.

(b) An instructor's license shall be granted by the board only after the applicant has passed a two-part examination, prescribed by the board for such purpose, with a grade of not less than 75% on each part of the examination, and has paid the prescribed fee for such examination.

(c) Every barber school and every barber college shall designate to the public that it is a barber school or barber college by posting a sign on the front window or entrance with letters not less than six inches in height.

(d) No barber school or barber college shall enroll or admit any student ~~thereto~~ unless such student shall make and file in duplicate an application upon a form prescribed and furnished by the board. One copy of such application shall be retained by the school or college, and the school or college shall file the other with the board. Upon enrollment, a student shall pay to the board the fee prescribed for a student learning license. Such license shall be used by the student while enrolled in the school or college and shall be placed next to or near the working area of the student.

(e) ~~No barber school or barber college shall enroll or admit any student to a postgraduate course for the purpose of qualifying persons to pass the examination conducted by the board to determine fitness to practice barbering.~~ *Barber schools or barber colleges may design courses of study for barbers who have not renewed their licenses for a period of at least three years, for students who have failed at least two examinations*

conducted by the board to determine fitness to practice barbering or for other purposes as prescribed by the board, including courses of study for professionals in related industries.

(f) It shall be unlawful for any person, firm or corporation to operate a barber school or barber college without first obtaining a license from the board, fully complying with the provisions of this act and paying an annual fee for ~~the operation thereof~~.

Sec. 4. K.S.A. 65-1812 is hereby amended to read as follows: 65-1812.

(a) Any person shall be qualified to receive a license to practice barbering if such person:

(1) Is at least 16 years of age and of good moral character and temperate habits;

(2) has graduated from a high school accredited by the appropriate accrediting agency or has otherwise obtained the equivalent of a high school education;

(3) is a graduate of a barber school or barber college approved by the board or has satisfactorily completed the barber course at an institution under the control of the secretary of corrections or the disciplinary barracks at Fort Leavenworth *or has been certified in a related industry, such as barbering in any branch of the United States military service, and has completed a course of study in a licensed Kansas barber college or barber school as prescribed by the board under K.S.A. 65-1810(e), and amendments thereto, or has been a cosmetologist licensed by the Kansas board of cosmetology and has completed a course of study in a licensed Kansas barber college or barber school as prescribed by the board under K.S.A. 65-1810(e), and amendments thereto; and*

(4) has paid an examination fee and has passed the examination conducted by the board to determine the fitness of such person to practice barbering.

(b) Any person who fails to pass an examination conducted by the board to determine such person's fitness to practice barbering shall be entitled to take the next examination conducted by the board.

(c) The board may issue a temporary license to practice barbering to any person who has graduated from an approved barber school or barber college and who makes application to take the next examination for licensure to practice barbering. Such license shall be effective only until the results of the examination are announced. No more than three temporary licenses shall be issued to any one person.

Sec. 5. K.S.A. 65-1819 is hereby amended to read as follows: 65-1819.

(a) Every licensed barber, instructor, operator of a barber shop and operator of a barber school or barber college shall annually renew the license and pay the required fee. The expiration date of each license which is issued, restored or renewed by the board shall be established by rules and regulations of the board so that licenses are renewed by the board

throughout the year on a continuing basis. In each case in which a license is issued, restored or renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 65-1817, and amendments thereto.

(b) A barber, *instructor or operator of a barber shop* whose license has been expired for a period of less than three years may have the license renewed ~~immediately~~ upon *filing with the board a renewal application and payment of the required restoration fee*. Any barber, *instructor or operator of a barber shop* whose license has been expired for a period of three or more years; may renew the license ~~after a successful~~ *by filing with the board an application for reexamination, successfully completing such reexamination by the board and* ~~upon the payment of~~ *paying the required examination and license fees. Upon receipt of such application, payment of fees and passage of reexamination, if applicable, the board may grant a new license according to the provisions of K.S.A. 65-1820a, and amendments thereto.*

Sec. 6. K.S.A. 65-1820a is hereby amended to read as follows: 65-1820a. (a) ~~The board may issue orders which require the remedying of any of the violations specified in subsection (b). If the violations are not remedied in a reasonable time after the order is issued, the board shall issue an order suspending the license of the violator. The board shall follow the procedure provided in the Kansas administrative procedure act to suspend a license.~~

~~(b) The board may refuse to issue, renew, suspend or revoke a license for any one or combination of the following reasons: censure, limit, condition, suspend, revoke or refuse to issue, reinstate or renew a license of any applicant or licensee upon proof that the applicant or licensee:~~

- ~~(1) Has committed malpractice or incompetency;~~
- ~~(2) when an applicant or a licensed barber is or becomes has become afflicted with an infectious or communicable disease;~~
- ~~(3) advertising has advertised by knowingly false or deceptive statements;~~
- ~~(4) advertising, practicing or attempting has advertised, practiced or attempted to practice under a trade name other than one's own;~~
- ~~(5) habitual drunkenness or habitual addiction to habit-forming drugs is unable to practice barbering with skill and safety due to current abuse of drugs or alcohol;~~
- ~~(6) has committed unprofessional conduct as defined in rules and regulations adopted by the board;~~
- ~~(7) obtaining or attempting has obtained or attempted to obtain a license for money other than the required fee, or for any other thing of value or by fraudulent misrepresentations;~~
- ~~(8) the willful failure has willfully failed to display a license to practice barbering as required by K.S.A. 65-1818, and amendments thereto;~~

(9) ~~practicing or attempting~~ *has practiced or attempted* to practice barbering by fraudulent misrepresentations;

(10) ~~the violation of~~ *has violated* any of the sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto, for the regulation of barber shops, barber schools and barber colleges; ~~or~~

(11) ~~the violation of~~ *has violated* any lawful rules and regulations of the board concerning the operation or management of a barber shop, barber school or barber college; *or*

(12) *has been convicted of any felony offense or misdemeanor offense of a crime against persons or involving illegal drugs as determined by the board in rules and regulations, and the licensee or applicant for a license is unable to demonstrate to the board's satisfaction that such person has been sufficiently rehabilitated to warrant the public trust.*

(b) The board, in lieu of or addition to any other penalty prescribed under the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, may assess a civil fine against a licensee for a violation of the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, in an amount not to exceed \$1,000.

(c) In all matters pending before the board, the board shall have the power to revoke the license of any licensee who voluntarily surrenders such person's or entity's license pending investigation of misconduct or while charges of misconduct against the licensee are pending or anticipated.

(d) All proceedings under the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall be in accordance with the Kansas judicial review act.

Sec. 7. K.S.A. 2015 Supp. 65-1824 is hereby amended to read as follows: 65-1824. The board is hereby authorized, empowered, and directed to administer and enforce the provisions of this act and the board is hereby granted such specific powers as are necessary for the purpose of administering and enforcing the same. In addition thereto, the board shall have power:

(a) To supervise and regulate the barbering industry in this state. Nothing contained in this act shall be construed to abrogate, affect the status, force or operation of any provision of the general laws of this state relating to public health or any lawful rule, regulation or order promulgated thereunder, the law regulating the practice of barbering or any local health ordinance or regulation.

(b) To investigate all matters pertaining to the proper supervision and control of barber shops and the practice of barbering in this state.

(c) To subpoena barber shop owners, operators, managers or employees, their books and accounts, and other persons from whom such information may be desired, to carry out the purposes and intent of this act, and may issue commissions to take depositions from witnesses absent from the state. Any member of the board may sign and issue subpoenas and administer oaths to witnesses.

(d) To act as mediator and arbitrator in any controversy or issue that may arise among or between barbers as individuals or that may arise between them as groups. Nothing herein contained shall be construed as authorizing any interference with the authority of the state department of labor or the United States department of labor.

The operation and effect of any provisions of this act which confer a general power upon the board shall not be impaired or qualified because a specific power has been granted to the board by this act.

(e) To issue a cease and desist order against any individual, operator or licensee if the board determines that such individual, operator or licensee has practiced without a valid license or engaged or attempted to engage in any act or practice in violation of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder.

(f) To make an application to any court of competent jurisdiction for an order enjoining any person who has engaged or attempted to engage in any act or practice in violation of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder. Upon a showing by the board that such person has engaged or attempted to engage in any such act or practice, an injunction, restraining order or such other order as may be appropriate shall be granted by such court without bond.

Sec. 8. K.S.A. 65-1810, 65-1812, 65-1819 and 65-1820a and K.S.A. 2015 Supp. 65-1824 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 13, 2016.

CHAPTER 92

HOUSE BILL No. 2615

AN ACT concerning healthcare providers; relating to powers, duties and functions thereof; licensure requirements; regulation; acupuncturists; certified nurse-midwives; physical therapists; professions regulated by the behavioral science regulatory board; amending K.S.A. 59-29b54, 59-29b61, 65-4016, 65-5806, 65-5808, 65-6314, 65-6407, 65-6408, 65-6411, 74-5311, 74-5318, 74-5361, 74-5362, 74-5363, 74-5365, 74-5370, 75-6115 and 75-6120 and K.S.A. 2015 Supp. 59-29b46, 59-3077, 65-1130, 65-1431, 65-1626, 65-2809, 65-2872, 65-2901, 65-2913, 65-4024a, 65-4101, 65-5807, 65-5809, 65-6309, 65-6311, 65-6313, 65-6405, 65-6406, 65-6607, 65-6608, 65-6609, 65-6610, 65-6611, 65-6612, 65-6613, 65-6614, 65-6615, 65-6616, 65-6617, 65-6618, 65-6620, 74-5310, 74-5315, 74-5316, 74-5324, 74-5367, 74-5369, 74-5375, 74-5376, 74-7507, 74-7508 and 75-6102 and repealing the existing sections; also repealing K.S.A. 74-5319, 74-5320, 74-5321, 74-5325, 74-5326, 74-5327, 74-5328, 74-5332, 74-5333, 74-5334, 74-5336 and 74-5338 and K.S.A. 2015 Supp. 65-5815, 65-6412, 65-6619 and 74-5337.

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

Section 1. K.S.A. 2015 Supp. 65-1431 is hereby amended to read as follows: 65-1431. (a) Each license to practice as a dentist or dental hygienist issued by the board, shall expire on December 1 of the year specified by the board for the expiration of the license and shall be renewed on a biennial basis. Each application for renewal shall be made on a form prescribed and furnished by the board. Every licensed dentist or dental hygienist shall pay to the board a renewal fee fixed by the board as provided in K.S.A. 65-1447, and amendments thereto.

(b) To provide for a staggered system of biennial renewal of licenses, the board may renew licenses for less than two years.

(c) On or before December 1 of the year in which the licensee's license expires, the licensee shall transmit to the board a renewal application, upon a form prescribed by the board, which shall include such licensee's signature, post office address, the number of the license of such licensee, whether such licensee has been engaged during the preceding licensure period in active and continuous practice whether within or without this state, and such other information as may be required by the board, together with the biennial licensure fee for a dental hygienist which is fixed by the board pursuant to K.S.A. 65-1447, and amendments thereto.

(d) (1) The board shall require every licensee to submit with the renewal application evidence of satisfactory completion of a program of continuing education required by the board. The board by duly adopted rules and regulations shall establish the requirements for such program of continuing education as soon as possible after the effective date of this act.

(2) *A dentist who is a charitable healthcare provider in Kansas who has signed an agreement to provide gratuitous services pursuant to K.S.A. 75-6102 and 75-6120, and amendments thereto, may fulfill one hour of*

continuing education credit by the performance of two hours of gratuitous services to medically indigent persons up to a maximum of six continuing education credits per licensure period.

(e) Upon fixing the biennial license renewal fee, the board shall immediately notify all licensees of the amount of the fee for the ensuing licensure period. Upon receipt of such fee and upon receipt of evidence that the licensee has satisfactorily completed a program of continuing education required by the board, the licensee shall be issued a renewal license authorizing the licensee to continue to practice in this state for a period of no more than two years.

(f) (1) Any license granted under authority of this act shall automatically be canceled if the holder thereof fails to apply for and obtain renewal prior to March 1 of the year following the December in which a renewal application is due.

(2) Any licensee whose license is required to be renewed for the next biennial period may obtain renewal, prior to February 1, by submitting to the board the required renewal application, payment of the biennial renewal fee and proof that such licensee has satisfactorily completed a program of continuing education required by the board. Any licensee whose license is required to be renewed for the next biennial period may obtain renewal, between February 1 and March 1, by submitting to the board the required renewal application, payment of the biennial renewal fee, payment of a penalty fee of not to exceed \$500 as fixed by rules and regulations by the board and proof that such licensee has satisfactorily completed a program of continuing education required by the board. The penalty fee in effect immediately prior to the effective date of this act shall continue in effect until rules and regulations establishing a penalty fee under this section become effective.

(g) Upon failure of any licensee to pay the applicable renewal fee or to present proof of satisfactory completion of the required program of continuing education by February 1 of the year following the December in which a renewal application is due, the board shall notify such licensee, in writing, by mailing notice to such licensee's last registered address. Failure to mail or receive such notice shall not affect the cancellation of the license of such licensee.

(h) The board may waive the payment of biennial fees and the continuing education requirements for the renewal of licenses without the payment of any fee for a person who has held a Kansas license to practice dentistry or dental hygiene if such licensee has retired from such practice or has become temporarily or permanently disabled and such licensee files with the board a certificate stating either of the following:

(1) A retiring licensee shall certify to the board that the licensee is not engaged, except as provided in K.S.A. 65-1466, and amendments thereto, in the provision of any dental service, the performance of any

dental operation or procedure or the delivery of any dental hygiene service as defined by the statutes of the state of Kansas; or

(2) a disabled licensee shall certify to the board that such licensee is no longer engaged in the provision of dental services, the performance of any dental operation or the provision of any dental hygiene services as defined by the statutes of the state of Kansas by reason of any physical disability, whether permanent or temporary, and shall describe the nature of such disability.

(i) The waiver of fees under subsection (h) shall continue so long as the retirement or physical disability exists. Except as provided in K.S.A. 65-1466, and amendments thereto, in the event the licensee returns to the practice for which such person is licensed, the requirement for payment of fees and continuing education requirements shall be reimposed commencing with and continuing after the date the licensee returns to such active practice. Except as provided in K.S.A. 65-1466, and amendments thereto, the performance of any dental service, including consulting service, or the performance of any dental hygiene service, including consulting service, shall be deemed the resumption of such service, requiring payment of license fees.

(j) The Kansas dental board may adopt such rules and regulations requiring the examination and providing means for examination of those persons returning to active practice after a period of retirement or disability as the board shall deem necessary and appropriate for the protection of the people of the state of Kansas except that for an applicant to practice dental hygiene who is returning to active practice after a period of retirement or disability, the board shall authorize as an alternative to the requirement for an examination that the applicant successfully complete a refresher course as defined by the board in an approved dental hygiene school.

Sec. 2. K.S.A. 2015 Supp. 65-2809 is hereby amended to read as follows: 65-2809. (a) The license shall be canceled on the date established by rules and regulations of the board which may provide renewal throughout the year on a continuing basis. In each case in which a license is renewed for a period of time of more or less than 12 months, the board may prorate the amount of the fee established under K.S.A. 65-2852, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the renewal date of the license.

(b) There is hereby created a designation of an active license. The board is authorized to issue an active license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an active license established pursuant to K.S.A. 65-2852, and amendments thereto. The board shall require every active licensee to submit evidence of satisfactory completion of a program of

continuing education required by the board. The requirements for continuing education for licensees of each branch of the healing arts shall be established by rules and regulations adopted by the board.

(c) The board, prior to renewal of a license, shall require an active licensee to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402, and amendments thereto, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

(d) At least 30 days before the renewal date of a licensee's license, the board shall notify the licensee of the renewal date by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to submit the renewal application and pay the renewal fee by the renewal date of the license, the licensee shall be given notice that the licensee has failed to submit the renewal application and pay the renewal fee by the renewal date of the license, that the license will be deemed canceled if not renewed within 30 days following the renewal date, that upon receipt of the renewal application and renewal fee and an additional fee established by rules and regulations of the board not to exceed \$500 within the 30-day period the license will not be canceled and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law and without further proceedings.

(e) Any license canceled for failure to renew may be reinstated within two years of cancellation upon recommendation of the board and upon payment of the renewal fees then due and upon proof of compliance with the continuing educational requirements established by the board by rules and regulations. Any person who has not been in the active practice of the branch of the healing arts for which reinstatement is sought or who has not been engaged in a formal educational program during the two years preceding the application for reinstatement may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(f) There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an exempt license established pursuant to K.S.A. 65-2852, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of the healing arts in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the branch of the healing arts for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to

all provisions of the healing arts act, except as otherwise provided in this subsection~~(f)~~. The holder of an exempt license may be required to submit evidence of satisfactory completion of a program of continuing education required by this section. The requirements for continuing education for exempt licensees of each branch of the healing arts shall be established by rules and regulations adopted by the board. Each exempt licensee may apply for an active license to regularly engage in the practice of the appropriate branch of the healing arts upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852, and amendments thereto. For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice the healing arts within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of the healing arts or engaged in a formal educational program since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety. Nothing in this subsection~~(f)~~ shall be construed to prohibit a person holding an exempt license from serving as a coroner or as a paid employee of: (1) A local health department as defined by K.S.A. 65-241, and amendments thereto; or (2) an indigent healthcare clinic as defined by K.S.A. 75-6102, and amendments thereto.

(g) There is hereby created a designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established pursuant to K.S.A. 65-2852, and amendments thereto. The board may issue an inactive license only to a person who is not regularly engaged in the practice of the healing arts in Kansas, who does not hold oneself out to the public as being professionally engaged in such practice and who meets the definition of inactive healthcare provider as defined in K.S.A. 40-3401, and amendments thereto. An inactive license shall not entitle the holder to practice the healing arts in this state. Each inactive license may be renewed subject to the provisions of this section. Each inactive licensee shall be subject to all provisions of the healing arts act, except as otherwise provided in this subsection~~(g)~~. The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by K.S.A. 65-2809, and amendments thereto. Each inactive licensee may apply for an active license upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852, and amendments thereto. For those licensees

whose license has been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice the healing arts within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of the healing arts or engaged in a formal education program since the licensee has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(h) (1) There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensee who makes written application for such license on a form provided by the board and remits the same fee required for a license established under K.S.A. 65-2852, and amendments thereto. The board may issue a federally active license only to a person who meets all the requirements for a license to practice the healing arts in Kansas and who practices that branch of the healing arts solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies. A person issued a federally active license may engage in limited practice outside of the course of federal employment consistent with the scope of practice of exempt licensees under subsection (f), except that the scope of practice of a federally active licensee shall be limited to the following: (A) Performing administrative functions, including peer review, disability determinations, utilization review and expert opinions; (B) providing direct patient care services gratuitously or providing supervision, direction or consultation for no compensation except that nothing in this subsection ~~(h)(1)(B)~~ *subparagraph* shall prohibit a person licensed to practice the healing arts issued a federally active license from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing such services; and (C) rendering professional services as a charitable healthcare provider as defined in K.S.A. 75-6102, and amendments thereto.

(2) The provisions of subsections (a), (b), (d) and (e) of this section relating to continuing education, cancellation, renewal and reinstatement of a license shall be applicable to a federally active license issued under this subsection.

(3) A person who practices under a federally active license shall not be deemed to be rendering professional service as a healthcare provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.

~~(j)~~(i) (1) There is hereby created the designation of reentry active license. The board is authorized to issue a reentry active license to any licensee who makes written application for such license on a form provided by the board and remits the fee for a reentry active license. The board may issue a reentry active license with requirements as the board

may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety to a person who has not regularly engaged in the practice of the healing arts for at least two years, but who meets all the qualifications for licensure. The requirements for issuance, maintenance and scope of practice for a reentry active license shall be established by rules and regulations adopted by the board.

(2) The provisions of subsections (a), (b) and (d) of this section relating to continuing education, cancellation and renewal of a license shall be applicable to a reentry active license issued under this subsection.

(j) *A charitable healthcare provider in Kansas who has signed an agreement to provide gratuitous services pursuant to K.S.A. 75-6102 and 75-6120, and amendments thereto, may fulfill one hour of continuing education credit by the performance of two hours of gratuitous services to medically indigent persons up to a maximum of 20 continuing education credits per licensure period.*

(k) *The board shall provide a measurement report annually, starting on January 15, 2017, to the senate committee on public health and welfare and the house committee on health and human services detailing by profession the number of gratuitous continuing education units used, compared to the number of continuous education units required.*

Sec. 3. K.S.A. 2015 Supp. 75-6102 is hereby amended to read as follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

(a) "State" means the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof.

(b) "Municipality" means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.

(c) "Governmental entity" means state or municipality.

(d) (1) "Employee" means: (A) Any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation and a charitable healthcare provider;

(B) any steward or racing judge appointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless of whether the services of such steward or racing judge are rendered pursuant to contract as an independent contractor;

(C) employees of the United States marshal's service engaged in the transportation of inmates on behalf of the secretary of corrections;

(D) a person who is an employee of a nonprofit independent contractor, other than a municipality, under contract to provide educational

or vocational training to inmates in the custody of the secretary of corrections and who is engaged in providing such service in an institution under the control of the secretary of corrections provided that such employee does not otherwise have coverage for such acts and omissions within the scope of their employment through a liability insurance contract of such independent contractor;

(E) a person who is an employee or volunteer of a nonprofit program, other than a municipality, who has contracted with the commissioner of juvenile justice or with another nonprofit program that has contracted with the secretary of corrections to provide a juvenile justice program for juvenile offenders in a judicial district provided that such employee or volunteer does not otherwise have coverage for such acts and omissions within the scope of their employment or volunteer activities through a liability insurance contract of such nonprofit program;

(F) a person who contracts with the Kansas guardianship program to provide services as a court-appointed guardian or conservator;

(G) an employee of an indigent healthcare clinic;

(H) former employees for acts and omissions within the scope of their employment during their former employment with the governmental entity;

(I) any member of a regional medical emergency response team, created under the provisions of K.S.A. 48-928, and amendments thereto, in connection with authorized training or upon activation for an emergency response;

(J) any member of a regional search and rescue team or regional hazardous materials response team contracting with the state fire marshal pursuant to K.S.A. 31-133, and amendments thereto, or K.S.A. 2015 Supp. 75-1518, and amendments thereto, in connection with authorized training or upon activation for an emergency response; and

(K) medical students enrolled at the university of Kansas medical center who are in clinical training, on or after July 1, 2008, at the university of Kansas medical center or at another healthcare institution.

(2) "Employee" does not include: (A) An individual or entity for actions within the scope of K.S.A. 60-3614, and amendments thereto; or

(B) any independent contractor under contract with a governmental entity except those contractors specifically listed in ~~paragraph (1) of this subsection (d)(1)~~.

(e) "Charitable healthcare provider" means a person licensed by the state board of healing arts as an exempt licensee or a federally active licensee, a person issued a limited permit by the state board of healing arts, a physician assistant licensed by the state board of healing arts, a mental health practitioner licensed by the behavioral sciences regulatory board, an ultrasound technologist currently registered in any area of sonography credentialed through the American registry of radiology technologists, the American registry for diagnostic medical sonography or car-

diovascular credentialing international and working under the supervision of a person licensed to practice medicine and surgery, or a healthcare provider as the term “healthcare provider” is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with:

(1) The secretary of health and environment under K.S.A. 75-6120, and amendments thereto, who, pursuant to such agreement, gratuitously renders professional services to a person who has provided information which would reasonably lead the healthcare provider to make the good faith assumption that such person meets the definition of medically indigent person as defined by this section or to a person receiving medical assistance from the programs operated by the department of health and environment, and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto;

(2) the secretary of health and environment and who, pursuant to such agreement, gratuitously renders professional services in conducting children’s immunization programs administered by the secretary;

(3) a local health department or indigent healthcare clinic, which renders professional services to medically indigent persons or persons receiving medical assistance from the programs operated by the department of health and environment gratuitously or for a fee paid by the local health department or indigent healthcare clinic to such provider and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto. Professional services rendered by a provider under this paragraph ~~(3)~~ shall be considered gratuitous notwithstanding fees based on income eligibility guidelines charged by a local health department or indigent healthcare clinic and notwithstanding any fee paid by the local health department or indigent healthcare clinic to a provider in accordance with this paragraph ~~(3)~~; or

(4) the secretary of health and environment to provide dentistry services defined by K.S.A. 65-1422 et seq., and amendments thereto, or dental hygienist services defined by K.S.A. 65-1456, and amendments thereto, that are targeted, but are not limited to, medically indigent persons, and are provided on a gratuitous basis: (A) At a location sponsored by a not-for-profit organization that is not the dentist or dental hygienist office location; (B) at the office location of a dentist or dental hygienist provided the care be delivered as part of a program organized by a not-for-profit organization and approved by the secretary of health and environment; or (C) as part of a charitable program organized by the dentist that has been approved by the secretary of health and environment upon a showing that the dentist seeks to treat medically indigent patients on a gratuitous basis, except that such dentistry services and dental hygienist services shall not include “oral and maxillofacial surgery” as defined by K.A.R. 71-2-2, or use sedation or general anesthesia that result in “deep sedation” or “general anesthesia” as defined by K.A.R. 71-5-7.

(f) “Medically indigent person” means a person who lacks resources

to pay for medically necessary healthcare services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 75-6120, and amendments thereto.

(g) “Indigent healthcare clinic” means an outpatient medical care clinic operated on a not-for-profit basis which has a contractual agreement in effect with the secretary of health and environment to provide healthcare services to medically indigent persons.

(h) “Local health department” shall have the meaning ascribed to such term under K.S.A. 65-241, and amendments thereto.

(i) “Fire control, fire rescue or emergency medical services equipment” means any vehicle, firefighting tool, protective clothing, breathing apparatus and any other supplies, tools or equipment used in firefighting or fire rescue or in the provision of emergency medical services.

(j) “Community mental health center” means any community mental health center organized pursuant to K.S.A. 19-4001 through 19-4015, and amendments thereto, or a mental health clinic organized pursuant to K.S.A. 65-211 through 65-215, and amendments thereto, and licensed in accordance with K.S.A. 75-3307b, and amendments thereto.

Sec. 4. K.S.A. 75-6120 is hereby amended to read as follows: 75-6120.

(a) The secretary of health and environment may enter into agreements with charitable healthcare providers in which such charitable healthcare provider stipulates to the secretary of health and environment that when such charitable healthcare provider renders professional services to a medically indigent person such services will be provided gratuitously. The secretary of health and environment shall adopt rules and regulations which specify the conditions for termination of any such agreement, and such rules and regulations are hereby made a part of any such agreement. A charitable healthcare provider for purposes of any claim for damages arising as a result of rendering professional services to a medically indigent person, which professional services were rendered gratuitously at a time when an agreement entered into by the charitable healthcare provider with the secretary of health and environment under this section was in effect, shall be considered an employee of the state under the Kansas tort claims act, *notwithstanding the provisions of article 34 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.*

(b) The secretary of health and environment shall establish by rules and regulations eligibility criteria for determining whether a person qualifies as a medically indigent person.

(c) Any claim arising from the rendering of or failure to render professional services by a charitable healthcare provider brought pursuant to the Kansas tort claims act shall not be considered by an insurance company in determining the rate charged for any professional liability insurance policy for healthcare providers or whether to cancel any such policy.

(d) *The secretary of health and environment shall annually report, starting on January 15, 2017, to the senate committee on public health and welfare and the house committee on health and human services which type of charitable healthcare providers have signed agreements under the act and how many are using it to provide gratuitous care.*

(e) This section shall be part of and supplemental to the Kansas tort claims act.

Sec. 5. K.S.A. 75-6115 is hereby amended to read as follows: 75-6115.

(a) The Kansas tort claims act shall not be applicable to claims arising from the rendering of or failure to render professional services by a health care provider other than:

- (1) A charitable health care provider;
- (2) a hospital owned by a municipality and the employees thereof;
- (3) a local health department and the employees thereof;
- (4) an indigent health care clinic and the employees thereof; ~~or~~
- (5) a district coroner or deputy district coroner appointed pursuant to K.S.A. 22a-226, and amendments thereto; or

(6) *a community mental health center and the employees thereof.*

(b) Claims for damages against a health care provider that is a governmental entity or an employee of a governmental entity other than those health care providers enumerated in subsection (a), arising out of the rendering of or failure to render professional services by such health care provider, may be recovered in the same manner as claims for damages against any other health care provider.

(c) As used in this section:

(1) “Indigent health care clinic” shall have the meaning ascribed to such term under K.S.A. 75-6102, and amendments thereto.

(2) “Charitable health care provider” shall have the meaning ascribed to such term under K.S.A. 75-6102, and amendments thereto.

(3) “Health care provider” shall have the meaning ascribed to such term under K.S.A. 40-3401, and amendments thereto.

(4) “Hospital” means a medical care facility as defined in K.S.A. 65-425, and amendments thereto, and includes within its meaning any clinic, school of nursing, long-term care facility, child-care facility and emergency medical or ambulance service operated in connection with the operation of the medical care facility.

(5) “Local health department” shall have the meaning ascribed to such term under K.S.A. 65-241, and amendments thereto.

New Sec. 6. Sections 6 through 29, and amendments thereto, shall be known and may be cited as the acupuncture practice act.

New Sec. 7. As used in the acupuncture practice act:

(a) “ACAOM” means the national accrediting agency recognized by the U.S. department of education that provides accreditation for educational programs for acupuncture and oriental medicine. For purposes of

the acupuncture practice act, the term ACAOM shall also include any entity deemed by the board to be the equivalent of ACAOM.

(b) “Act” means the acupuncture practice act.

(c) “Acupuncture” means the use of needles inserted into the human body by piercing of the skin and related modalities for the assessment, evaluation, prevention, treatment or correction of any abnormal physiology or pain by means of controlling and regulating the flow and balance of energy in the body and stimulating the body to restore itself to its proper functioning and state of health.

(d) “Board” means the state board of healing arts.

(e) “Council” means the acupuncture advisory council established by section 18, and amendments thereto.

(f) “Licensed acupuncturist” means any person licensed to practice acupuncture under the acupuncture practice act.

(g) “NCCAOM” means the national certification commission for acupuncture and oriental medicine. NCCAOM is a national organization that validates entry-level competency in the practice of acupuncture and oriental medicine through the administration of professional certification examinations. For purposes of the acupuncture practice act, the term NCCAOM shall also include any entity deemed by the board to be the equivalent of the NCCAOM.

(h) “Physician” means a person licensed to practice medicine and surgery or osteopathy in Kansas.

(i) “Practice of acupuncture” includes, but is not limited to:

(1) Techniques sometimes called “dry needling,” “trigger point therapy,” “intramuscular therapy,” “auricular detox treatment” and similar terms;

(2) mechanical, thermal, pressure, suction, friction, electrical, magnetic, light, sound, vibration, manual and electromagnetic treatment;

(3) the use, application or recommendation of therapeutic exercises, breathing techniques, meditation and dietary and nutritional counselings; and

(4) the use and recommendation of herbal products and nutritional supplements, according to the acupuncturist’s level of training and certification by the NCCAOM or its equivalent.

(j) “Practice of acupuncture” does not include:

(1) Prescribing, dispensing or administering of any controlled substances as defined in K.S.A. 65-4101 et seq., and amendments thereto, or any prescription-only drugs;

(2) the practice of medicine and surgery, including obstetrics and the use of lasers or ionizing radiation;

(3) the practice of osteopathic medicine and surgery or osteopathic manipulative treatment;

(4) the practice of chiropractic;

(5) the practice of dentistry; or

(6) the practice of podiatry.

New Sec. 8. (a) On and after July 1, 2017, except as otherwise provided in this act, no person shall practice acupuncture unless such person possesses a current and valid acupuncture license issued under this act.

(b) (1) No person shall depict oneself orally or in writing, expressly or by implication, as a holder of a license who does not hold a current license under this act.

(2) Only persons licensed under this act shall be entitled to use the title “licensed acupuncturist” or the designated letters “L.Ac.”

(3) Nothing in this section shall be construed to prohibit an acupuncturist licensed under this act from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to denote any educational degrees, certifications or credentials which such licensed acupuncturist has earned.

(4) Violation of this section shall constitute a class B misdemeanor.

New Sec. 9. Needles used in the practice of acupuncture shall only be prepackaged, single-use and sterile. These needles shall only be used on an individual patient in a single treatment session.

New Sec. 10. (a) The following shall be exempt from the requirements for an acupuncture license pursuant to this act:

(1) Any person licensed in this state to practice medicine and surgery, osteopathy, dentistry or podiatry, a licensed chiropractor or a licensed naturopathic doctor, if the person confines the person’s acts or practice to the scope of practice authorized by their health professional licensing laws and does not represent to the public that the person is licensed under this act;

(2) any herbalist or herbal retailer who does not hold oneself out to be a licensed acupuncturist;

(3) any health care provider in the United States armed forces, federal facilities and other military service when acting in the line of duty in this state;

(4) any student, trainee or visiting teacher of acupuncture, oriental medicine or herbology who is designated as a student, trainee or visiting teacher while participating in a course of study or training under the supervision of a licensed acupuncturist licensed under this act in a program that the council has approved. This includes continuing education programs and any acupuncture or herbology programs that are a recognized route by the NCCAOM, or its equivalent, to certification;

(5) any person rendering assistance in the case of an emergency or disaster relief;

(6) any person practicing self-care or any family member providing gratuitous care, so long as such person or family member does not represent or hold oneself out to the public to be an acupuncturist;

(7) any person who massages, so long as such person does not practice acupuncture or hold oneself out to be a licensed acupuncturist;

(8) any person whose professional services are performed pursuant to delegation by and under the supervision of a practitioner licensed under this act;

(9) any team acupuncturist or herbology practitioner, who is traveling with and treating those associated with an out-of-state or national team that is temporarily in the state for training or competition purposes; and

(10) any person licensed as a physical therapist when performing dry needling, trigger point therapy or services specifically authorized in accordance with the provisions of the physical therapy practice act.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 11. An applicant for licensure as an acupuncturist shall file an application, on forms provided by the board, showing to the satisfaction of the board that the applicant:

(a) Is at least 21 years of age;

(b) has successfully completed secondary schooling or its equivalent;

(c) has satisfactorily completed a course of study involving acupuncture from an accredited school of acupuncture which the board shall determine to have educational standards substantially equivalent to the minimum educational standards for acupuncture colleges as established by the ACAOM or NCCAOM;

(d) has satisfactorily passed a license examination approved by the board;

(e) has the reasonable ability to communicate in English; and

(f) has paid all fees required for licensure pursuant to section 16, and amendments thereto.

New Sec. 12. (a) The board, without examination, may issue a license to a person who has been in the active practice of acupuncture in some other state, territory, the District of Columbia or other country upon certification by the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, that the applicant's license has never been limited, suspended or revoked, that the licensee has never been censured or received other disciplinary actions and that, so far as the records of such authority are concerned, the applicant is entitled to such licensing authority's endorsement. The applicant shall also present proof satisfactory to the board:

(1) That the state, territory, District of Columbia or country in which the applicant last practiced has and maintains standards at least equal to those maintained in Kansas;

(2) that the applicant's original license was based upon an examination at least equal in quality to the examination required in this state and that the passing grade required to obtain such original license was comparable to that required in this state;

(3) the date of the applicant's original license and all endorsed licenses and the date and place from which any license was attained;

(4) the applicant has been actively engaged in practice under such license or licenses since issued. The board may adopt rules and regulations establishing qualitative and quantitative practice activities which qualify as active practice;

(5) that the applicant has a reasonable ability to communicate in English; and

(6) that the applicant has paid all the application fees as prescribed by section 16, and amendments thereto.

(b) An applicant for a license by endorsement shall not be licensed unless, as determined by the board, the applicant's individual qualifications are substantially equivalent to the Kansas requirements for licensure under the acupuncture practice act.

New Sec. 13. The board shall waive the education and examination requirements for an applicant who submits an application on or before January 1, 2018, and who, on or before July 1, 2017:

(a) Is 21 years of age or older;

(b) has successfully completed secondary schooling or its equivalent;

(c) (1) (A) has completed a minimum of 1,350 hours of study, excluding online study in the field of acupuncture; and

(B) has been engaged in the practice of acupuncture with a minimum of 1,500 patient visits during a period of at least three of the five years immediately preceding July 1, 2017, as evidenced by two affidavits from office partners, clinic supervisors or other individuals approved by the board, who have personal knowledge of the years of practice and number of patients visiting the applicant for acupuncture. The board may adopt rules and regulations for further verification of the applicant's practice of acupuncture; or

(2) has satisfactorily passed a license examination approved by the board;

(d) has a reasonable ability to communicate in English; and

(e) has paid all fees required for licensure as prescribed by section 16, and amendments thereto.

New Sec. 14. (a) The license shall be canceled on March 31 of each year unless renewed in the manner prescribed by the board. In each case in which a license is renewed for a period of time of less than 12 months, the board may prorate the amount of the fee established under section 16, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the renewal date of the license.

(b) There is hereby created a designation of an active license. The board is authorized to issue an active license to any licensee who makes written application for such license on a form provided by the board and

remits the fee established pursuant to section 16, and amendments thereto. The board shall require every active licensee to submit evidence of satisfactory completion of a program of continuing education required by the board. The requirements for continuing education for licensed acupuncturists shall be established by rules and regulations adopted by the board.

(c) The board, prior to renewal of a license, shall require an active licensee to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

(d) At least 30 days before the renewal date of a licensee's license, the board shall notify the licensee of the renewal date by mail addressed to the licensee's last known mailing address. If the licensee fails to submit the renewal application and pay the renewal fee by the renewal date of the license, the licensee shall be given notice that the licensee has failed to submit the renewal application and pay the renewal fee by the renewal date of the license, that the license will be deemed canceled if not renewed within 30 days following the renewal date, that upon receipt of the renewal application and renewal fee and an additional late fee established by rules and regulations not to exceed \$500 within the 30-day period, the license will not be canceled and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law and without further proceedings.

(e) Any license canceled for failure to renew may be reinstated within two years of cancellation upon recommendation of the board and upon payment of the renewal fees then due and upon proof of compliance with the continuing education requirements established by the board by rules and regulations. Any person who has not been in the active practice of acupuncture for which reinstatement is sought or who has not been engaged in a formal educational program during the two years preceding the application for reinstatement may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(f) There is hereby created a designation of an exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to section 16, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of acupuncture in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the practice of acupuncture for which such license is issued. Each exempt license may be renewed subject to the provisions of this section.

Each exempt licensee shall be subject to all provisions of the acupuncture practice act, except as otherwise provided in this subsection. The holder of an exempt license may be required to submit evidence of satisfactory completion of a program of continuing education required by this section. The requirements for continuing education for exempt licensees shall be established by rules and regulations adopted by the board. Each exempt licensee may apply for an active license to regularly engage in the practice of acupuncture upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to section 16, and amendments thereto. For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice acupuncture within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of acupuncture since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety. Nothing in this subsection shall be construed to prohibit a person holding an exempt license from serving as a paid employee of: (1) A local health department as defined by K.S.A. 65-241, and amendments thereto; or (2) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.

(g) There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to section 16, and amendments thereto. The board may issue an inactive license only to a person who is not regularly engaged in the practice of acupuncture in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An inactive license shall not entitle the holder to practice acupuncture in this state. Each inactive license may be renewed subject to the provisions of this section. Each inactive licensee shall be subject to all provisions of the acupuncture practice act, except as otherwise provided in this subsection. The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by subsection (b). Each inactive licensee may apply for an active license upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to section 16, and amendments thereto. For those licensees whose licenses have been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice acupuncture within Kansas. Any licensee whose license has been inactive for more than two

years and who has not been in the active practice of acupuncture or engaged in a formal education program since the license has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee’s present ability to practice with reasonable skill and safety.

(h) This section shall take effect on and after July 1, 2017.

New Sec. 15. A person whose license has been revoked may apply for reinstatement after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form provided by the board and shall be accompanied by the fee established by the board in accordance with section 16, and amendments thereto. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement. If the board determines that a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial. All proceedings conducted on an application for reinstatement shall be in accordance with the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act. The board, on its own motion, may stay the effectiveness of an order of revocation of license.

New Sec. 16. The board shall charge and collect in advance nonrefundable fees for acupuncturists as established by the board by rules and regulations, not to exceed:

Initial application for licensure	\$700
Annual renewal for active license - paper.....	\$300
Annual renewal for active license - online	\$250
Annual renewal for inactive license - paper	\$200
Annual renewal for inactive license - online.....	\$150
Annual renewal for exempt license - paper.....	\$200
Annual renewal for exempt license - online	\$150
Late renewal fee	\$100
Conversion from inactive to active license.....	\$300
Conversion from exempt to active license	\$300
Application for reinstatement of revoked license.....	\$1,000
Certified copy of license	\$25
Written verification of license.....	\$25

New Sec. 17. The board shall remit all moneys received by or for the board from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of such amount shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from the healing arts fee fund shall be made in accordance with appropriation acts upon warrants of the di-

rector of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president.

New Sec. 18. (a) There is hereby established the acupuncture advisory council to assist the state board of healing arts in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas, appointed as follows:

(1) The board shall appoint one member who is a physician licensed to practice medicine and surgery or osteopathy. The member appointed by the board shall serve at the pleasure of the board. The governor shall appoint three acupuncturists who have at least three years' experience in acupuncture preceding appointment and are actively engaged, in this state, in the practice of acupuncture or the teaching of acupuncture. At least two of the governor's appointments shall be made from a list of four nominees submitted by the Kansas association of oriental medicine. The governor shall appoint one member from the public sector who is not engaged, directly or indirectly, in the provision of health services. Insofar as possible, persons appointed by the governor to the council shall be from different geographic areas.

(2) The members appointed by the governor shall be appointed for terms of four years and until a successor is appointed. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term.

(b) The council shall meet at least once each year at a time of its choosing at the board's main office and at such other times as may be necessary on the chairperson's call or on the request of a majority of the council's members.

(c) A majority of the council constitutes a quorum. No action may be taken by the council except by affirmative vote of the majority of the members present and voting.

(d) Members of the council attending meetings of the council, or a subcommittee of the council, shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto, from the healing arts fee fund.

New Sec. 19. The acupuncture advisory council shall advise the board regarding:

- (a) Examination, licensing and other fees;
- (b) rules and regulations to be adopted to carry out the provisions of this act;
- (c) the number of yearly continuing education hours required to maintain active licensure;
- (d) changes and new requirements taking place in the areas of acupuncture; and
- (e) such other duties and responsibilities as the board may assign.

New Sec. 20. The board shall promulgate all necessary rules and regulations which may be necessary to administer the provisions of this act and to supplement the provisions herein.

New Sec. 21. (a) A licensee's license may be revoked, suspended, limited or placed on probation, or the licensee may be publicly censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(1) The licensee has committed an act of unprofessional conduct as defined by rules and regulations adopted by the board;

(2) the licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license;

(3) the licensee has committed an act of professional incompetency as defined by rules and regulations adopted by the board;

(4) the licensee has been convicted of a felony;

(5) the licensee has violated any provision of the acupuncture practice act;

(6) the licensee has violated any lawful order or rule and regulation of the board;

(7) the licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction;

(8) the licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(9) the licensee has surrendered a license or authorization to practice as an acupuncturist in another state or jurisdiction, has agreed to a limitation or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(10) the licensee has failed to report to the board the surrender of the licensee's license or authorization to practice as an acupuncturist in another state or jurisdiction or the surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(11) the licensee has an adverse judgment, award or settlement rendered against the licensee resulting from a medical liability claim related

to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(12) the licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section; or

(13) the licensee's ability to practice with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or use of alcohol, drugs or controlled substances. When reasonable suspicion of impairment exists, the board may take action in accordance with K.S.A. 65-2842, and amendments thereto. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery by or release to any person or entity outside of a board proceeding. This provision regarding confidentiality shall expire on July 1, 2022, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.

(b) The denial, refusal to renew, suspension, limitation, probation or revocation of a license or other sanction may be ordered by the board upon a finding of a violation of the acupuncture practice act. All administrative proceedings conducted pursuant to this act shall be in accordance with the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

(c) This section shall take effect on and after July 1, 2017.

New Sec. 22. (a) The board shall have jurisdiction of proceedings to take disciplinary action against any licensee practicing under the acupuncture practice act. Any such action shall be taken in accordance with the Kansas administrative procedure act.

(b) Either before or after formal charges have been filed, the board and the licensee may enter into a stipulation which shall be binding upon the board and the licensee entering into such stipulation, and the board may enter its findings of fact and enforcement order based upon such stipulation without the necessity of filing any formal charges or holding hearings in the case. An enforcement order based upon a stipulation may order any disciplinary action against the licensee entering into such stipulation.

(c) The board may temporarily suspend or temporarily limit the license of any licensee in accordance with the emergency adjudicative proceedings provisions under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action against the licensee and that the licensee's continuation of practice would constitute an imminent danger to public health and safety.

(d) Judicial review and civil enforcement of any agency action under this act shall be in accordance with the Kansas judicial review act.

New Sec. 23. The board or a committee of the board may implement non-disciplinary resolutions concerning a licensed acupuncturist consistent with the provisions of K.S.A. 65-2838a, and amendments thereto.

New Sec. 24. The state board of healing arts, in addition to any other penalty prescribed under the acupuncture practice act, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the acupuncture practice act in an amount not to exceed \$2,000 for a first violation, \$5,000 for a second violation and \$10,000 for a third violation and any subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4218, 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. Fines collected under this section shall be considered administrative fines pursuant to 11 U.S.C. § 523.

New Sec. 25. (a) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information, except the information may be disclosed:

(1) In any proceeding conducted by the board under the law or in an appeal of an order of the board entered in a proceeding, or to any party to a proceeding or appeal or the party's attorney;

(2) to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information; or

(3) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would constitute grounds for action under this act.

(b) Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be re-disclosed by the receiving agency except as otherwise authorized by law.

(c) This section regarding confidentiality shall expire on July 1, 2022, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.

New Sec. 26. (a) No person reporting to the state board of healing arts in good faith any information such person may have relating to alleged incidents of malpractice, or the qualifications, fitness or character of, or

disciplinary action taken against a person licensed, registered or certified by the board shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association composed of persons licensed to practice acupuncture and the individual members of any committee thereof, which in good faith investigates or communicates information pertaining to the alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against any licensee, registrant or certificate holder to the state board of healing arts or to any committee or agent thereof, shall be immune from liability in any civil action that is based upon such investigation or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.

New Sec. 27. (a) The confidential relations and communications between a licensed acupuncturist and the acupuncturist's patient are placed on the same basis as those established between a physician and a physician's patient in K.S.A. 60-427, and amendments thereto.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 28. (a) When it appears that any person is violating any provision of this act, the board may bring an action in the name of the state in a court of competent jurisdiction for an injunction against such violation without regard as to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 29. If any provision of the acupuncture practice act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the acupuncture practice act which can be given effect without the invalid provision or application, and to this end the provisions of the acupuncture practice act are declared to be severable.

Sec. 30. K.S.A. 2015 Supp. 65-2872 is hereby amended to read as follows: 65-2872. The practice of the healing arts shall not be construed to include the following persons:

(a) Persons rendering gratuitous services in the case of an emergency.

(b) Persons gratuitously administering ordinary household remedies.

(c) The members of any church practicing their religious tenets provided they shall not be exempt from complying with all public health regulations of the state.

(d) Students while in actual classroom attendance in an accredited healing arts school who after completing one year's study treat diseases under the supervision of a licensed instructor.

(e) Students upon the completion of at least three years study in an

accredited healing arts school and who, as a part of their academic requirements for a degree, serve a preceptorship not to exceed 180 days under the supervision of a licensed practitioner.

(f) Persons who massage for the purpose of relaxation, muscle conditioning, or figure improvement, provided no drugs are used and such persons do not hold themselves out to be physicians or healers.

(g) Persons whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act.

(h) Persons in the general fields of psychology, education and social work, dealing with the social, psychological and moral well-being of individuals or groups, or both, provided they do not use drugs and do not hold themselves out to be the physicians, surgeons, osteopathic physicians or chiropractors.

(i) Practitioners of the healing arts in the United States army, navy, air force, public health service, and coast guard or other military service when acting in the line of duty in this state.

(j) Practitioners of the healing arts licensed in another state when and while incidentally called into this state in consultation with practitioners licensed in this state.

(k) Dentists practicing their professions, when licensed and practicing in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(l) Optometrists practicing their professions, when licensed and practicing under and in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(m) Nurses practicing their profession when licensed and practicing under and in accordance with the provisions of article 11 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(n) Podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(o) Every act or practice falling in the field of the healing arts, not specifically excepted herein, shall constitute the practice thereof.

(p) Pharmacists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(q) A dentist licensed in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, who administers general and local anesthetics to facilitate medical pro-

cedures conducted by a person licensed to practice medicine and surgery if such dentist is certified by the board of healing arts under K.S.A. 65-2899, and amendments thereto, to administer such general and local anesthetics.

(r) Practitioners of the healing arts duly licensed under the laws of another state who do not open an office or maintain or appoint a place to regularly meet patients or to receive calls within this state, but who order services which are performed in this state in accordance with rules and regulations of the board. The board shall adopt rules and regulations identifying circumstances in which professional services may be performed in this state based upon an order by a practitioner of the healing arts licensed under the laws of another state.

(s) *Acupuncturists, when licensed and practicing in accordance with sections 6 through 29, and amendments thereto, rules and regulations adopted thereto, and interpretations thereof by the supreme court of this state.*

(t) Persons licensed by the state board of cosmetology practicing their professions, when licensed and practicing under and in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

New Sec. 31. (a) The board shall adopt rules and regulations establishing minimum education and training requirements for the practice of dry needling by a licensed physical therapist.

(b) This section shall be part of and supplemental to the physical therapy practice act.

Sec. 32. K.S.A. 2015 Supp. 65-2901 is hereby amended to read as follows: 65-2901. As used in ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ *the physical therapy practice act*:

(a) "Physical therapy" means examining, evaluating and testing individuals with mechanical, anatomical, physiological and developmental impairments, functional limitations and disabilities or other health and movement-related conditions in order to determine a diagnosis solely for physical therapy, prognosis, plan of therapeutic intervention and to assess the ongoing effects of physical therapy intervention. Physical therapy also includes alleviating impairments, functional limitations and disabilities by designing, implementing and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; functional training in community or work integration or reintegration; manual therapy; *dry needling*; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic

modalities; patient-related instruction; reducing the risk of injury, impairments, functional limitations and disability, including the promotion and maintenance of fitness, health and quality of life in all age populations and engaging in administration, consultation, education and research. Physical therapy also includes the care and services provided by a physical therapist or a physical therapist assistant under the direction and supervision of a physical therapist who is licensed pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ *the physical therapy practice act*. Physical therapy does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, the practice of any branch of the healing arts and the making of a medical diagnosis.

(b) “Physical therapist” means a person who is licensed to practice physical therapy pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ *the physical therapy practice act*. Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist and may designate or describe oneself, as appropriate, as a physical therapist, physiotherapist, licensed physical therapist, doctor of physical therapy, abbreviations thereof, or words similar thereto or use of the designated letters P.T., Ph.T., M.P.T., D.P.T. or L.P.T. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term “Dr.” or “Doctor” in conjunction with such licensee’s professional practice, whether in any written or oral communication, shall identify oneself as a “physical therapist” or “doctor of physical therapy.”

(c) “Physical therapist assistant” means a person who is certified pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~ *the physical therapy practice act* and who works under the direction of a physical therapist, and who assists the physical therapist in selected components of physical therapy intervention. Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist assistant, and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, abbreviations thereof, or words similar thereto or use of the designated letters P.T.A., C.P.T.A. or P.T. Asst. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate

any educational degrees, certifications or credentials which such physical therapist assistant has earned.

(d) “Board” means the state board of healing arts.

(e) “Council” means the physical therapy advisory council.

(f) “*Dry needling*” means a skilled intervention using a thin filiform needle to penetrate into or through the skin and stimulate underlying myofascial trigger points or muscular or connective tissues for the management of neuromuscular pain or movement impairments.

(g) “Physician” means a person licensed to practice medicine and surgery.

~~(g)~~ (h) “Recognized by the board” means an action taken by the board at an open meeting to recognize letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials, consistent with the provisions of this act, which a physical therapist may appropriately use to designate or describe oneself and which shall be published in the official minutes of the board.

Sec. 33. K.S.A. 2015 Supp. 65-2913 is hereby amended to read as follows: 65-2913. (a) It shall be unlawful for any person who is not licensed under ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~ *the physical therapy practice act* as a physical therapist or whose license has been suspended or revoked in any manner to represent oneself as a physical therapist or to use in connection with such person’s name the words physical therapist, physiotherapist, licensed physical therapist or doctor of physical therapy or use the abbreviations P.T., Ph. T., M.P.T., D.P.T. or L.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist. A violation of this subsection shall constitute a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term “Dr.” or “Doctor” in conjunction with such licensee’s professional practice, whether in any written or oral communication, shall identify oneself as a “physical therapist” or “doctor of physical therapy.”

(b) Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person’s name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~ *the phys-*

ical therapy practice act shall be guilty of a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.

(c) Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and practicing their profession. The provisions of ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~ *the physical therapy practice act* shall not apply to the following individuals so long as they do not hold themselves out in a manner prohibited under subsection (a) or (b) ~~of this section~~:

(1) Persons rendering assistance in the case of an emergency;
(2) members of any church practicing their religious tenets;
(3) persons whose services are performed pursuant to the delegation of and under the supervision of a physical therapist who is licensed under this act;

(4) health care providers in the United States armed forces, public health services, federal facilities and coast guard or other military service when acting in the line of duty in this state;

(5) licensees under the healing arts act, and practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensee under ~~subsection (g) of K.S.A. 65-2872(g), and amendments thereto~~;

(6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;

(7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under ~~subsection (m) of K.S.A. 65-1124(m), and amendments thereto~~;

(8) health care providers who have been formally trained and are practicing in accordance with their training or have received specific training in one or more functions included in this act pursuant to established educational protocols or both;

(9) students while in actual attendance in an accredited health care educational program and under the supervision of a qualified instructor;

(10) self-care by a patient or gratuitous care by a friend or family member;

(11) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(12) podiatrists practicing their profession when licensed and prac-

ting in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(13) occupational therapists practicing their profession when licensed and practicing in accordance with the occupational therapy practice act and occupational therapy assistants practicing their profession when licensed and practicing in accordance with the occupational therapy practice act;

(14) respiratory therapists practicing their profession when licensed and practicing in accordance with the respiratory therapy practice act;

(15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;

(16) persons practicing corrective therapy in accordance with their training in corrective therapy;

(17) athletic trainers practicing their profession when licensed and practicing in accordance with the athletic trainers licensure act;

(18) persons who massage for the purpose of relaxation, muscle conditioning or figure improvement, so long as no drugs are used and such persons do not hold themselves out to be physicians or healers;

(19) barbers practicing their profession when licensed and practicing in accordance with the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(20) cosmetologists practicing their profession when licensed and practicing in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(21) attendants practicing their profession when certified and practicing in accordance with the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;~~and~~

(22) naturopathic doctors practicing their profession when licensed and practicing in accordance with the naturopathic doctor licensure act; *and*

(23) *acupuncturists practicing their profession when licensed and practicing in accordance with the acupuncture practice act.*

(d) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed physical therapy must be performed by or pursuant to the delegation of a licensed physical therapist or other health care provider.

(e) Nothing in this act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon physical therapists to engage in any activity not conferred by ~~article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ *the physical therapy practice act.*

New Sec. 34. (a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection

with any investigation of any holder of a license, registration, permit or certificate, the behavioral sciences regulatory board may require a person to be fingerprinted and submit to 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 criminal history in this state or another jurisdiction. The behavioral sciences regulatory board is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The behavioral sciences regulatory board may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.

(b) Local and state law enforcement officers and agencies shall assist the behavioral sciences regulatory board in the taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the behavioral sciences regulatory board.

(c) The behavioral sciences regulatory board may fix and collect a fee as may be required by the board in an amount equal to the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the behavioral sciences regulatory board fee fund. The behavioral sciences regulatory board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the behavioral sciences regulatory board fee fund.

Sec. 35. K.S.A. 65-5806 is hereby amended to read as follows: 65-5806. (a) An applicant who meets the requirements for licensure pursuant to this act, has paid the license fee provided for by K.S.A. 65-5808, and amendments thereto, and has otherwise complied with the provisions of this act shall be licensed by the board.

(b) Licenses issued pursuant to this act shall expire 24 months from the date of issuance unless revoked prior to that time. A license may be renewed upon application and payment of the fee provided for by K.S.A. 65-5808, and amendments thereto. The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed during the previous 24 months the continuing education required by rules and regulations of the board. As part of such continuing education, a licensee shall complete not less than six continuing education

hours relating to diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(c) A person whose license has been suspended or revoked may make written application to the board requesting reinstatement of the license upon termination of the period of suspension or revocation in a manner prescribed by the board, which application shall be accompanied by the fee provided for by K.S.A. 65-5808, and amendments thereto.

(d) *Within 30 days after any change of permanent address, a licensee shall notify the board of such change.*

Sec. 36. K.S.A. 2015 Supp. 65-5807 is hereby amended to read as follows: 65-5807. (a) The board may issue a license to an individual who is currently registered, certified or licensed to practice professional counseling in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice professional counseling in the other jurisdiction are substantially equivalent to the requirements of this state; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure to practice professional counseling ~~during the five years~~ for at least 60 of the last 66 months immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) a ~~masters~~ master's degree in counseling from a regionally accredited university or college.

(b) Applicants for licensure as a clinical professional counselor shall additionally demonstrate competence to diagnose and treat mental disorders through meeting the requirements of either ~~paragraph (1) or (2) of subsection (a)(1) or (a)(2)~~ and at least two of the following areas acceptable to the board:

(1) Either graduate coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board;

(2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders; or

(3) attestation from a professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat mental disorders.

(c) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 65-5808, and amendments thereto, *if required by the board.*

Sec. 37. K.S.A. 65-5808 is hereby amended to read as follows: 65-5808. (a) The board ~~shall may~~ ~~fix by rules and regulations~~ the following fees, ~~and any such fees shall be established by rules and regulations adopted by the board:~~

(1) For application for licensure *as a professional counselor*, not more than \$100;

(2) for an original license *as a professional counselor*, not more than \$175;

(3) for ~~examination~~ *a temporary license as a professional counselor*, not more than \$175;

(4) for renewal ~~of a license~~ *for licensure as a professional counselor*, not more than \$150;

(5) ~~for reinstatement of a license, not more than \$175;~~

~~(6) for replacement of a license, not more than \$20;~~

~~(7) for application for licensure as a clinical professional counselor, not more than \$175;~~

(6) *for licensure as a clinical professional counselor, not more than \$175;*

~~(8) (7) for renewal for licensure as a clinical professional counselor, not more than \$175;~~

~~(9) (8) for late renewal penalty, an amount equal to the fee for renewal of a license; and~~

~~(10) for exchange of a license in lieu of registration pursuant to subsection (b) of K.S.A. 65-5811 and amendments thereto, not to exceed \$150~~

(9) *for reinstatement of a license, not more than \$175;*

(10) *for replacement of a license, not more than \$20; and*

(11) *for a wallet card license, not more than \$5.*

(b) Fees paid to the board are not refundable.

Sec. 38. K.S.A. 2015 Supp. 65-5809 is hereby amended to read as follows: 65-5809. (a) The board may refuse to issue, ~~suspend, limit, refuse to renew, condition or revoke any license granted under the professional counselors licensure act~~ for any of the following reasons:

(a) ~~Use of drugs or alcohol, or both, to an extent that impairs the individual's ability to engage in the practice of professional counseling;~~

~~(b) the individual has been convicted of a felony and, after investigation, the board finds that the individual has not been sufficiently rehabilitated to merit the public trust;~~

~~(c) use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of the professional counselors licensure act or in obtaining permission to take any examination given or required pursuant to the provisions of the professional counselors licensure act;~~

~~(d) obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;~~

~~(e) incompetence, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a professional counselor or clinical professional counselor;~~

~~(f) violation of, or assisting or enabling any individual to violate, any provision of the professional counselors licensure act or any rule and regulation adopted under such act;~~

~~(g) impersonation of any individual holding a license or allowing any individual to use a license or diploma from any school of a person licensed under the professional counselors licensure act or a diploma from any school of an applicant for licensure under the professional counselors licensure act;~~

~~(h) revocation or suspension of a license or other authorization to practice counseling granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized by the professional counselors licensure act;~~

~~(i) the individual is mentally ill or physically disabled to an extent that impairs the individual's ability to engage in the practice of professional counseling;~~

~~(j) assisting or enabling any person to hold oneself out to the public or offer to hold oneself out to the public as a licensed professional counselor or a licensed clinical professional counselor who is not licensed under the provisions of the professional counselors licensure act;~~

~~(k) the issuance of the license was based upon a material mistake of fact;~~

~~(l) violation of any professional trust or confidence;~~

~~(m) use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;~~

~~(n) unprofessional conduct as defined by rules and regulations adopted by the board; or~~

~~(o) the licensee renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for licensure:~~

~~(1) Is incompetent to practice professional counseling, which means:~~

~~(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;~~

~~(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or~~

~~(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice professional counseling;~~

(2) *has been convicted of a felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;*

(3) *has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;*

(4) *is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;*

(5) *has violated a provision of the professional counselors licensure act or one or more rules and regulations of the board;*

(6) *has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;*

(7) *has knowingly made a false statement on a form required by the board for a license or license renewal;*

(8) *has failed to obtain continuing education credits as required by rules and regulations adopted by the board;*

(9) *has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board; or*

(10) *has had a registration, license or certificate as a professional counselor revoked, suspended or limited, or has had other disciplinary action taken, or an application for a registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.*

(b) *For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.*

(c) *Administrative proceedings and disciplinary actions regarding licensure under the professional counselors licensure act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the professional counselors licensure act shall be in accordance with the Kansas judicial review act.*

New Sec. 39. On and after July 1, 2017, all licensees providing post-graduate clinical supervision for those working toward clinical licensure must be board-approved clinical supervisors.

(a) Applications for a board-approved clinical supervisor shall be made to the board on a form and in the manner prescribed by the board.

Each application shall be accompanied by the fee fixed under K.S.A. 65-5808, and amendments thereto.

(b) Each applicant for board-approved clinical supervisor shall furnish evidence satisfactory to the board that the applicant:

(1) (A) Is currently licensed as a clinical professional counselor and has practiced as a clinical professional counselor for two years beyond the supervisor's licensure date; or

(B) is a person who is licensed at the graduate level to practice in one of the behavioral sciences, and whose authorized scope of practice permits the independent practice of counseling, therapy, or psychotherapy and has practiced at least two years of clinical practice beyond the date of licensure at this level;

(2) does not have any disciplinary action that would prohibit providing clinical supervision; and

(3) (A) has completed the minimum number of semester hours of coursework related to the enhancement of supervision skills approved by the board; or

(B) has completed the minimum number of continuing education hours related to the enhancement of supervision skills approved by the board.

(c) Each board-approved clinical supervisor shall complete, as part of the continuing education required under K.S.A. 65-5806, and amendments thereto, at least three hours of continuing education related to the enhancement of supervisory skills, and at least one such hour must focus on ethics in supervision.

Sec. 40. K.S.A. 2015 Supp. 65-6309 is hereby amended to read as follows: 65-6309. (a) Except as provided in subsections (b) and (c), an applicant shall be exempted from the requirement for any examination provided for herein if:

(1) The applicant proves to the board that the applicant is licensed or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this act as determined by the board; and

(2) pursuant to the laws of any such state or territory, the applicant has taken and passed an examination similar to that for which exemption is sought, as determined by the board.

(b) The board may issue a license to an individual who is currently licensed to practice social work at the clinical level in another jurisdiction if the board determines that:

(1) The standards for licensure to practice social work at the clinical level in the other jurisdiction are substantially equivalent to the requirements of this state for licensure at the clinical level; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Licensure to practice social work at the clinical level ~~during the five years~~ *for at least 60 of the last 66 months* immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a licensing board or agency; and

(C) ~~a masters~~ *master's* or doctoral degree in social work from a regionally accredited university or college and from an accredited graduate social work program recognized and approved by the board pursuant to rules and regulations adopted by the board.

(c) Applicants for licensure as a clinical specialist social worker shall additionally demonstrate competence to diagnose and treat mental disorders through meeting the following requirements:

(1) Passing a national clinical examination approved by the board or, in the absence of the national examination, continuous licensure to practice as a clinical social worker during the 10 years immediately preceding the application; and

(2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders.

(d) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 65-6314, and amendments thereto, *if required by the board*.

(e) Upon application, the board shall issue temporary licenses to persons who have submitted documentation and met all qualifications for licensure under provisions of this act, except passage of the required examination, and who have paid the required fee.

~~(f) Such persons shall take the license examination within six months subsequent to the date of issuance of the temporary license unless there are extenuating circumstances approved by the board.~~

~~(g)~~ Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies a license to practice social work or six months after the date of issuance of the temporary license. No temporary license will be renewed or issued again on any subsequent applications for the same license level. The preceding provisions in no way limit the number of times an applicant may take the examination.

~~(h)~~ (g) No person may work under a temporary license except under the supervision of a licensed social worker.

~~(i)~~ (h) Nothing in this section shall affect any temporary license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such temporary license.

~~(j)~~ (i) Any individual employed by a hospital and working in the area of hospital social services to patients of such hospital on July 1, 1974, is exempt from the provisions of this act.

~~(k) If an applicant is denied licensure, the board shall provide the applicant with a written explanation of the denial within 10 days after the decision of the board, excluding Saturdays, Sundays and legal holidays.~~

Sec. 41. K.S.A. 2015 Supp. 65-6311 is hereby amended to read as follows: 65-6311. (a) The board may ~~suspend, limit, revoke, condition or refuse to issue or renew a license of any social worker upon proof that the social worker:~~

~~(1) Has been convicted of a felony and, after investigation, the board finds that the licensee has not been sufficiently rehabilitated to merit the public trust;~~

~~(2) has been found guilty of fraud or deceit in connection with services rendered as a social worker or in establishing needed qualifications under this act;~~

~~(3) has knowingly aided or abetted a person, not a licensed social worker, in representing such person as a licensed social worker in this state;~~

~~(4) has been found guilty of unprofessional conduct as defined by rules established by the board;~~

~~(5) has been found to have engaged in diagnosis as authorized under K.S.A. 65-6319, and amendments thereto, even though not authorized to engage in such diagnosis under K.S.A. 65-6319, and amendments thereto;~~

~~(6) has been found guilty of negligence or wrongful actions in the performance of duties; or~~

~~(7) refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for license:~~

~~(1) Is incompetent to practice social work, which means:~~

~~(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;~~

~~(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or~~

~~(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice social work;~~

~~(2) has been convicted of a felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(3) has been convicted of a misdemeanor against persons and has not~~

demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(5) has violated a provision of the social workers licensure act or one or more rules and regulations of the board;

(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(7) has knowingly made a false statement on a form required by the board for a license or license renewal;

(8) has failed to obtain continuing education credits as required by rules and regulations adopted by the board;

(9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board; or

(10) has had a license, registration or certificate to practice social work revoked, suspended or limited, or has had other disciplinary action taken, or an application for a license, registration or certificate denied, by the proper licensing regulatory authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

~~(b) Proceedings to consider the suspension, revocation or refusal to renew a license shall be conducted in accordance with the provisions of the Kansas administrative procedure act. For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a 2/3 majority vote.~~

(c) Administrative proceedings and disciplinary actions regarding licensure under the social workers licensure act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the social workers licensure act shall be in accordance with the Kansas judicial review act.

Sec. 42. K.S.A. 2015 Supp. 65-6313 is hereby amended to read as follows: 65-6313. (a) All licenses issued shall be effective upon the date issued and shall expire at the end of 24 months from the date of issuance.

(b) (1) Except as otherwise provided in K.S.A. 65-6311, and amendments thereto, a license may be renewed by the payment of the renewal fee set forth in K.S.A. 65-6314, and amendments thereto, and the execution and submission of a signed statement, on a form to be provided by the board, attesting that the applicant's license has been neither revoked nor currently suspended and that applicant has met the require-

ments for continuing education established by the board including not less than three continuing education hours of professional ethics.

(2) An applicant for renewal of a license as a master social worker or a specialist clinical social worker, as part of such continuing education, shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders.

(3) ~~On and after January 1, 2011,~~ An applicant for first time licensure renewal as a baccalaureate social worker, master social worker or specialist clinical social worker, as part of such continuing education, shall complete not less than six hours of social worker safety awareness training. If the applicant for first time licensure renewal has already taken such training, as part of a previous level of social work licensure renewal, then the applicant is not required to complete an additional six hours of social worker safety training.

(c) The application for renewal shall be made on or before the date of the expiration of the license or on or before the date of the termination of the period of suspension.

(d) If the application for renewal, including payment of the required renewal fee, is not made on or before the date of the expiration of the license, the license is void, and no license shall be reinstated except upon payment of the required renewal fee established under K.S.A. 65-6314, and amendments thereto, plus a penalty equal to the renewal fee, and proof satisfactory to the board of the completion of 40 hours of continuing education within two years prior to application for reinstatement. Upon receipt of such payment and proof, the board shall reinstate the license. A license shall be reinstated under this subsection, upon receipt of such payment and proof, at any time after the expiration of such license.

(e) In case of a lost or destroyed license, and upon satisfactory proof of the loss or destruction thereof, the board may issue a duplicate license and shall charge a fee as set forth in K.S.A. 65-6314, and amendments thereto, for such duplicate license.

(f) *Within 30 days after any change of permanent address, a licensee shall notify the board of such change.*

Sec. 43. K.S.A. 65-6314 is hereby amended to read as follows: 65-6314. (a) The following fees ~~shall~~ *may* be established by the board ~~by rules and regulations~~ in accordance with the following limitations, *and any such fees shall be established by rules and regulations adopted by the board:*

(1) Renewal or reinstatement fee for a license as a social work associate shall be not more than \$150.

(2) Application, new license, reinstatement or renewal fee for a license as a baccalaureate social worker shall be not more than \$150.

(3) Application, new license, reinstatement or renewal fee for a license as master social worker shall be not more than \$150.

(4) Application, new license, reinstatement or renewal fee for a license in a social work specialty shall be not more than \$150.

(5) ~~Examination fee for a license as a baccalaureate social worker, for a license as a master social worker or for a license in a social work specialty shall be not more than \$200. If an applicant fails an examination, such applicant may be admitted to subsequent examinations upon payment of an additional fee prescribed by the board of not more than \$200.~~

~~(6) Replacement fee for reissuance of a license certificate due to loss or name change shall be not more than \$20.~~

~~(6) Replacement fee for reissuance of a wallet card shall be not more than \$5.~~

(7) Temporary license fee for a baccalaureate social worker, master social worker or a social work specialty shall be not more than \$50.

(8) Application fee for approval as board-approved continuing education sponsors shall be as follows:

(A) Initial application fee for one year provisionally approved providers shall be not more than \$125;

(B) three-year renewal fees for approved providers shall be not more than \$350; and

(C) application fees for single program providers shall be not more than \$50 for each separately offered continuing education activity for which prior approval is sought.

(b) Fees paid to the board are not refundable.

New Sec. 44. K.S.A. 65-6301 through 65-6320, and this section, and amendments thereto, shall be known and may be cited as the social workers licensure act.

Sec. 45. K.S.A. 2015 Supp. 65-6405 is hereby amended to read as follows: 65-6405. (a) A person who is waiting to take the examination required by the board may apply to the board for a temporary license to practice as a licensed marriage and family therapist by:

(1) Paying an application fee ~~of no more than \$150, as established by the board under K.S.A. 65-6411, and amendments thereto;~~ and

(2) meeting the application requirements as stated in ~~subsections (a)(1), (2) and (4) of K.S.A. 65-6404(a)(1), (a)(2) and (a)(4), and amendments thereto.~~

(b) (1) A temporary license may be issued by the board after the application has been reviewed and approved by the board and the applicant has paid the appropriate fee set by the board for issuance of new licenses.

(2) Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies the person a license to practice marriage and family therapy or 12 months after the date of issuance of the temporary license.

(3) ~~A temporary licensee shall take the license examination within six~~

~~months subsequent to the date of issuance of the temporary license unless there are extenuating circumstances approved by the board or if the temporary licensee does not take the license examination within six months subsequent to the date of issuance of the temporary license and no extenuating circumstances have been approved by the board, the temporary license will expire after the first six months.~~

(4) No temporary license will be renewed or issued again on any subsequent application for the same license level. The preceding provision in no way limits the number of times an applicant may take the examination.

(c) A person practicing marriage and family therapy with a temporary license may not use the title “licensed marriage and family therapist” or the initials “LMFT” independently. The word “licensed” may be used only when followed by the words “by temporary license” such as licensed marriage and family therapist by temporary license, or marriage and family therapist, temporarily licensed.

(d) No person may practice marriage and family therapy under a temporary license except under the supervision of a person licensed by the behavioral sciences regulatory board at the independent level.

(e) Nothing in this section shall affect any temporary license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such temporary license.

Sec. 46. K.S.A. 2015 Supp. 65-6406 is hereby amended to read as follows: 65-6406. (a) The board may issue a license to an individual who is currently registered, certified or licensed to practice marriage and family therapy in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice marriage and family therapy in the other jurisdiction are substantially the equivalent of the requirements of the marriage and family therapists licensure act and rules and regulations of the board;

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure to practice marriage and family therapy ~~during the five years for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) completion of a ~~masters~~ *master's* degree in marriage and family therapy from a regionally accredited university.

(b) Applicants for licensure as a clinical marriage and family therapist shall additionally demonstrate competence to diagnose and treat mental disorders through meeting the requirements of either ~~paragraph (1) or (2)~~ of subsection (a)(1) *or (a)(2)* and at least two of the following areas acceptable to the board:

(1) Either graduate coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board;

(2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders; or

(3) attestation from a professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat mental disorders.

(c) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 65-6411, and amendments thereto, *if required by the board*.

Sec. 47. K.S.A. 65-6407 is hereby amended to read as follows: 65-6407. (a) An applicant who meets the requirements for licensure pursuant to this act, has paid the license fee provided for by K.S.A. 65-6411, and amendments thereto, and has otherwise complied with the provisions of this act shall be licensed by the board.

(b) Licenses issued pursuant to this act shall expire 24 months from the date of issuance unless revoked prior to that time. A license may be renewed upon application and payment of the fee provided for by K.S.A. 65-6411, and amendments thereto. The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed during the previous 24 months the continuing education required by rules and regulations of the board. As part of such continuing education, the applicant shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(c) A person whose license has been suspended or revoked may make written application to the board requesting reinstatement of the license upon termination of the period of suspension or revocation in a manner prescribed by the board, which application shall be accompanied by the fee provided for by K.S.A. 65-6411, and amendments thereto.

(d) *Within 30 days after any change of permanent address, a licensee shall notify the board of such change.*

Sec. 48. K.S.A. 65-6408 is hereby amended to read as follows: 65-6408. The board may refuse to grant licensure to, or may suspend, revoke, condition, limit, qualify or restrict the licensure of any individual who the

~~board, after a hearing, determines issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for license:~~

~~(1) Is incompetent to practice marriage and family therapy, or is found to engage in the practice of marriage and family therapy in a manner harmful or dangerous to a client or to the public which means:~~

~~(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;~~

~~(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or~~

~~(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice marriage and family therapy;~~

~~(2) is has been convicted by a court of competent jurisdiction of a crime that the board determines is of a nature to render the convicted person unfit to practice marriage and family therapy felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(3) (5) has violated a provision of the marriage and family therapists licensure act or one or more of the rules and regulations of the board;~~

~~(4) (6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;~~

~~(5) (7) has knowingly made a false statement on a form required by the board for license or license renewal;~~

~~(6) (8) has failed to obtain continuing education credits required by rules and regulations of the board;~~

~~(7) (9) has been found guilty of to have engaged in unprofessional conduct as defined by applicable rules and regulations—established adopted by the board; or~~

~~(8) (10) has had a registration, license or certificate as a marriage and family therapist revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, Dis-~~

trict of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) *For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.*

(c) *Administrative proceedings and disciplinary actions regarding licensure under the marriage and family therapists licensure act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the marriage and family therapists licensure act shall be in accordance with the Kansas judicial review act.*

Sec. 49. K.S.A. 65-6411 is hereby amended to read as follows: 65-6411. (a) The board ~~shall may fix by rules and regulations and shall collect~~ the following fees, ~~and any such fees shall be established by rules and regulations adopted by the board:~~

(1) For application for licensure *as a marriage and family therapist*, not to exceed \$150;

(2) for original licensure *as a marriage and family therapist*, not to exceed \$175;

~~(3) for examination, not to exceed \$275;~~

~~(4) for renewal of a license for licensure as a marriage and family therapist~~, not to exceed \$175;

~~(5) (4) for application for licensure as a clinical marriage and family therapist~~, not to exceed \$175;

(5) *for original licensure as a clinical marriage and family therapist*, not to exceed \$175;

(6) for renewal for licensure as a clinical marriage and family therapist, not to exceed \$175;

(7) for reinstatement of a license, not to exceed \$175;

(8) for replacement of a license, not to exceed \$20; ~~and~~

~~(9) for late charges, not to exceed \$5 for each 30 days of delay beyond the date the renewal application was to be made~~ *renewal penalty, an amount equal to the renewal of license; and*

(10) *for a wallet card license, not to exceed \$5.*

(b) Fees paid to the board are not refundable.

New Sec. 50. On and after July 1, 2017, all licensees providing post-graduate clinical supervision for those working toward clinical licensure must be board-approved clinical supervisors.

(a) Applications for board-approved clinical supervisor shall be made to the board on a form and in the manner prescribed by the board. Each application shall be accompanied by the fee fixed under K.S.A. 65-6411, and amendments thereto.

(b) Each applicant for board-approved clinical supervisor shall furnish evidence satisfactory to the board that the applicant:

(1) (A) Is currently licensed as a clinical marriage and family therapist and has practiced as a clinical marriage and family therapist for two years beyond the supervisor's licensure date; or

(B) be a person who is licensed at the graduate level to practice in one of the behavioral sciences, and whose authorized scope of practice permits the diagnosis and treatment of mental disorders and shall have at least two years of professional experience in the independent practice of clinical marriage and family therapy beyond the date of licensure at this level;

(2) does not have any disciplinary action that would prohibit providing clinical supervision; and

(3) (A) has completed the minimum number of semester hours of coursework related to the enhancement of supervision skills approved by the board; or

(B) has completed the minimum number of continuing education hours related to the enhancement of supervision skills approved by the board.

(c) Each board-approved clinical supervisor shall complete, as part of the continuing education required under K.S.A. 65-6407, and amendments thereto, at least three hours of continuing education related to the enhancement of supervisory skills, and at least one such hour must focus on ethics in supervision.

Sec. 51. K.S.A. 2015 Supp. 65-6607 is hereby amended to read as follows: 65-6607. K.S.A. 2015 Supp. 65-6607 through 65-6620, and amendments thereto, shall be known and may be cited as the ~~addictions~~ *addiction* counselor licensure act.

Sec. 52. K.S.A. 2015 Supp. 65-6608 is hereby amended to read as follows: 65-6608. As used in the ~~addictions~~ *addiction* counselor licensure act:

(a) "Board" means the behavioral sciences regulatory board created under K.S.A. 74-7501, and amendments thereto.

(b) "Addiction counseling" means the utilization of special skills to assist persons with addictions, and to assist such persons' families and friends to achieve resolution of addiction through the exploration of the disease and its ramifications, the examination of attitudes and feelings, the consideration of alternative solutions and decision making, as these relate specifically to addiction. Evaluation and assessment, treatment including treatment plan development, crisis intervention, referral, record keeping and clinical consultation specifically related to addiction are within the scope of addiction counseling. Additionally, at the clinical level of licensure, addiction counseling includes independent practice and the diagnosis and treatment of substance use disorders.

(c) “Licensed addiction counselor” means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person shall engage in the practice of addiction counseling in a state-licensed or certified alcohol and other drug treatment program or in completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 2015 Supp. 75-7d01 through 75-7d13, and amendments thereto, unless otherwise exempt ~~for~~ from licensure under ~~subsection (m) of~~ K.S.A. 59-29b46(n), and amendments thereto.

(d) *“Licensed master’s addiction counselor” means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person may diagnose substance use disorders only under the direction of a licensed clinical addiction counselor, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of substance abuse disorders or mental disorders.*

(e) “Licensed clinical addiction counselor” means a person who engages in the independent practice of addiction counseling and diagnosis and treatment of substance use disorders specified in the edition of the American psychiatric association’s diagnostic and statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed under this act.

Sec. 53. K.S.A. 2015 Supp. 65-6609 is hereby amended to read as follows: 65-6609. (a) ~~On and after September 1, 2011,~~ No person shall engage in the practice of addiction counseling or represent that such person is a licensed addiction counselor or is an addiction counselor ~~or~~, a substance abuse counselor or an alcohol and drug counselor without having first obtained a license as an addiction counselor under the ~~addiction counselor licensure act.~~

(b) *On and after September 1, 2016, no person shall engage in the practice of addiction counseling or represent that such person is a licensed master’s addiction counselor, master’s addiction counselor, master’s substance abuse counselor or master’s alcohol and drug counselor without having first obtained a license as a master’s addiction counselor under the addiction counselor licensure act.*

(c) ~~On and after September 1, 2011,~~ No person shall engage in the practice of addiction counseling as a clinical addiction counselor or represent that such person is a licensed clinical addiction counselor ~~or is~~, a clinical addiction counselor ~~or~~, a clinical substance abuse counselor or a clinical alcohol and drug counselor without having first obtained a license as a clinical addiction counselor under the addiction counselor licensure act.

~~(e)~~ (d) Violation of this section is a class B misdemeanor.

Sec. 54. K.S.A. 2015 Supp. 65-6610 is hereby amended to read as follows: 65-6610. (a) An applicant for licensure as an addiction counselor shall furnish evidence that the applicant:

(1) Has attained the age of 21; ~~and~~

(2) (A) has completed at least a baccalaureate degree from an addiction counseling program that is part of a college or university approved by the board; or

(B) has completed at least a baccalaureate degree from a college or university approved by the board ~~in a related field that includes~~. *As part of, or in addition to, the baccalaureate degree coursework, such applicant shall also complete* a minimum number of semester hours of coursework on substance use disorders as approved by the board; or

~~(C) has completed at least a baccalaureate degree from a college or university approved by the board in a related field with additional coursework in addiction counseling from a college or university approved by the board, and such degree program and the additional coursework includes a minimum number of semester hours of coursework on substance use disorders as approved by the board; or~~

~~(D) is currently licensed in Kansas as a licensed baccalaureate social worker and has completed a minimum number of semester hours of coursework on substance use disorders as approved by the board; or and~~

~~(E) is currently licensed in Kansas as a licensed master social worker, licensed professional counselor, licensed marriage and family therapist or licensed masters level psychologist; and~~

(3) has passed an examination approved by the board; ~~and~~

(4) has satisfied the board that the applicant is a person who merits the public trust; and

(5) ~~each applicant~~ has paid the application fee established by the board under K.S.A. 2015 Supp. 65-6618, and amendments thereto.

(b) *Applications for licensure as a master's addiction counselor shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:*

(1) (A) *Has attained the age of 21;*

(B) (i) *has completed at least a master's degree from an addiction counseling program that is part of a college or university approved by the board;*

(ii) *has completed at least a master's degree from a college or university approved by the board. As part of or in addition to the master's degree coursework, such applicant shall also complete a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; or*

(iii) *is currently licensed in Kansas as a licensed master social worker,*

licensed professional counselor, licensed marriage and family therapist or licensed master's level psychologist; and

(C) has passed an examination approved by the board;

(D) has satisfied the board that the applicant is a person who merits the public trust; and

(E) has paid the application fee fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto; or

(2) (A) has met the following requirements on or before July 1, 2016:

(i) Holds an active license by the board as an addiction counselor; and

(ii) has completed at least a master's degree in a related field from a college or university approved by the board; and

(B) has completed six hours of continuing education in the diagnosis and treatment of substance use disorders during the three years immediately preceding the application date.

(c) Applications for licensure as a clinical addiction counselor shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(1) Has attained the age of 21; and

(2) (A) (i) has completed at least a master's degree from an addiction counseling program that is part of a college or university approved by the board; and

*(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than ~~two years~~ *one year* of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or*

(B) (i) has completed at least a master's degree from a college or

university approved by the board ~~in a related field that includes~~. *As part of or in addition to the master's degree coursework, such applicant shall also complete a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and*

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than ~~two years~~ *one year* of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

(C) (i) ~~has completed a master's degree from a college or university approved by the board in a related field with additional coursework in addiction counseling from a college or university approved by the board and such degree program and additional coursework includes a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and~~

~~(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least~~

~~750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board, or~~

~~(D)~~ (i) has completed a master's degree in a related field from a college or university approved by the board and is licensed by the board as a licensed *master's* addiction counselor; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than ~~two years~~ *one year* of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

(E) is currently licensed in Kansas as a licensed psychologist, licensed specialist clinical social worker, licensed clinical professional counselor, licensed clinical psychotherapist or licensed clinical marriage and family therapist and provides to the board an attestation from a professional licensed to diagnose and treat mental disorders, or substance use disorders, or both, in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat substance use disorders; and

(3) has passed an examination approved by the board; and

(4) has satisfied the board that the applicant is a person who merits the public trust; and

(5) has paid the application fee fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto.

~~(d)~~ (d) *Prior to July 1, 2017*, a person who was registered by the behavioral sciences regulatory board as an alcohol and other drug counselor or credentialed by the Kansas department for aging and disability services as an alcohol and drug credentialed counselor or credentialed by the Kansas association of addiction professionals as an alcohol and other drug abuse counselor in Kansas at any time prior to the effective date of this act, who was registered in Kansas as an alcohol and other drug counselor, an alcohol and drug credentialed counselor or a credentialed alcohol and other drug abuse counselor within three years prior to the effective date of this act and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed addiction counselor by providing demonstration acceptable to the board of competence to perform the duties of an addiction counselor.

~~(d)~~ (e) *Prior to July 1, 2017*, any person who was registered by the behavioral sciences regulatory board as an alcohol and other drug counselor or credentialed by the department of social and rehabilitation services as an alcohol and drug credentialed counselor or credentialed by the Kansas association of addiction professionals as an alcohol and other drug abuse counselor in Kansas at any time prior to the effective date of this act, and who is also licensed to practice independently as a mental health practitioner or person licensed to practice medicine and surgery, and who was registered or credentialed in Kansas as an alcohol and other drug counselor within three years prior to the effective date of this act and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical addiction counselor and may engage in the independent practice of addiction counseling and is authorized to diagnose and treat substance use disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations.

~~(e)~~ (f) *Prior to July 1, 2017*, any person who was credentialed by the department of social and rehabilitation services as an alcohol and drug counselor and has been actively engaged in the practice, supervision or administration of addiction counseling in Kansas for not less than four years and holds a master's degree in a related field from a college or university approved by the board and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a clinical addiction counselor and may engage in the independent practice of addiction counseling and is authorized to diagnose and treat substance

use disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations.

~~(f) A licensed addiction counselor shall engage in the practice of addiction counseling only in a state licensed or certified alcohol and other drug treatment program, unless otherwise exempt from licensure under subsection (m) of K.S.A. 59-29b46, and amendments thereto.~~

Sec. 55. K.S.A. 2015 Supp. 65-6611 is hereby amended to read as follows: 65-6611. (a) A person who is waiting to take the examination for licensure as an addiction counselor may apply to the board for a temporary license to practice as a licensed addiction counselor by: (1) Paying an application fee for a temporary license fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto;; and (2) meeting the application requirements as stated in ~~subsections (a)(1), (2) and (4) of K.S.A. 2015 Supp. 65-6610(a)(1), (a)(2) and (a)(4), and amendments thereto.~~

(b) A person who is waiting to take the examination for licensure as a master's addiction counselor may apply to the board for a temporary license to practice as a licensed master's addiction counselor by: (1) Paying an application fee for a temporary license fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto; and (2) meeting the application requirements as stated in K.S.A 2015 Supp. 65-6610(b)(1), (b)(2) and (b)(4), and amendments thereto.

(c) (1) A temporary license may be issued by the board after the application has been reviewed and approved by the board and the applicant has paid the appropriate fee set by the board for issuance of new licenses.

(2) Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies the person a license to practice addiction counseling or 12 months after the date of issuance of the temporary license.

(3) No temporary license will be renewed or issued again on any subsequent application for the same license level. The preceding provision in no way limits the number of times an applicant may take the examination.

~~(e)~~ (d) A person practicing addiction counseling with a temporary license may not use the title "licensed addiction counselor" or "*licensed master's addiction counselor*" or use the initials "LAC" or "LMAC" independently. The word "licensed" may be used only when followed by the words "by temporary license" such as licensed addiction counselor by temporary license, or addiction counselor, temporarily licensed.

~~(e)~~ (e) No person may practice addiction counseling under a temporary license except in a licensed or certified alcohol and other drug abuse program, under the direction of a person licensed by the behavioral

sciences regulatory board at the clinical level or a person licensed to practice medicine and surgery.

(e) (f) Nothing in this section shall affect any temporary license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such license.

Sec. 56. K.S.A. 2015 Supp. 65-6612 is hereby amended to read as follows: 65-6612. (a) Upon written application and board approval, an individual who is licensed to engage in the independent clinical practice of addiction counseling at the clinical level in another jurisdiction and who is in good standing in that other jurisdiction may engage in the independent practice of clinical addiction counseling as provided by the ~~addictions~~ *addiction* counselor licensure act, in this state for not more than 15 days per year upon receipt of a temporary permit to practice issued by the board.

(b) Any clinical addiction counseling services rendered within any 24-hour period shall count as one entire day of clinical addiction counseling services.

(c) The temporary permit to practice shall be effective on the date of approval by the board and shall expire December 31 of that year. Upon written application and for good cause shown, the board may extend the temporary permit to practice no more than 15 additional days.

(d) The board shall charge a fee for a temporary permit to practice and a fee for an extension of a temporary permit to practice as fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto.

(e) A person who holds a temporary permit to practice clinical addiction counseling in this state shall be deemed to have submitted to the jurisdiction of the board and shall be bound by the statutes and regulations that govern the practice of clinical addiction counseling in this state.

(f) In accordance with the Kansas administrative procedure act, the board may issue a cease and desist order or assess a fine of up to \$1,000 per day, or both, against a person licensed in another jurisdiction who engages in the independent practice of clinical addiction counseling in this state without complying with the provisions of this section.

Sec. 57. K.S.A. 2015 Supp. 65-6613 is hereby amended to read as follows: 65-6613. (a) The board may issue a license to an individual who is currently registered, certified or licensed to practice addiction counseling in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice addiction counseling in the other jurisdiction are substantially the

equivalent of the requirements of the ~~addictions~~ *addiction* counselor licensure act and rules and regulations of the board; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure to practice *as an addiction counseling during the five years* *counselor for at least 60 of the last 66 months* immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board; ~~and~~

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) completion of *at least* a baccalaureate ~~or master's degree in addiction counseling~~ from a college or university approved by the board ~~or completion of a baccalaureate or master's degree in a related field that includes all required addiction coursework.~~

(b) *The board may issue a license to an individual who is currently registered, certified or licensed to practice addiction counseling at the master's level in another jurisdiction if the board determines that:*

(1) (A) *The standards for registration, certification or licensure to practice addiction counseling at the master's level in the other jurisdiction are substantially the equivalent of the requirements of the addiction counselor licensure act and rules and regulations of the board; and*

(B) *completion of at least a master's degree from a college or university approved by the board; or*

(2) *the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:*

(A) *Registration, certification or licensure to practice addiction counseling at the master's level for at least 60 of the last 66 months immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;*

(B) *the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and*

(C) *completion of at least a master's degree from a college or university approved by the board.*

(c) *The board may issue a license to an individual who is currently registered, certified or licensed to practice ~~clinical~~ addiction counseling at the clinical level in another jurisdiction if the board determines that:*

(1) (A) *The standards for registration, certification or licensure to practice ~~clinical~~ addiction counseling at the clinical level in the other jurisdiction are substantially the equivalent of the requirements of the ~~addictions~~ addiction counselor licensure act and rules and regulations of the board; ~~or~~ and*

(B) *the applicant demonstrates completion of at least a master's degree from a college or university approved by the board; or*

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure to practice ~~clinical~~ addiction counseling ~~during the five years at the clinical level for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board; ~~and~~

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; ~~and~~

(C) ~~(i)~~ completion of at least a master's degree ~~in clinical addiction counseling~~ from a college or university approved by the board; ~~or~~

~~(ii)~~ completion of at least a master's degree from a college or university approved by the board in a related field that includes a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; ~~or~~

~~(iii)~~ completion of at least a master's degree from a college or university approved by the board in a related field with additional coursework in addiction counseling from a college or university approved by the board and such degree program and additional coursework includes a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and

(D) at least two of the following areas acceptable to the board:

(i) Either coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board; ~~or~~

(ii) three years of clinical practice with demonstrated experience supporting diagnosing or treating substance use disorders; or

(iii) attestation from a professional licensed to diagnose and treat mental disorders, or substance use disorders, or both, in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat substance use disorders.

~~(e)~~ *(d)* An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 2015 Supp. 65-6618, and amendments thereto, *if required by the board.*

Sec. 58. K.S.A. 2015 Supp. 65-6614 is hereby amended to read as follows: 65-6614. (a) An applicant who meets the requirements for licensure pursuant to this act, has paid the license fee provided for by K.S.A. 2015 Supp. 65-6618, and amendments thereto, and has otherwise complied with the provisions of this act shall be licensed by the board.

(b) Licenses issued pursuant to this act shall expire 24 months from the date of issuance unless revoked prior to that time. A license may be renewed upon application and payment of the fee provided for by K.S.A. 2015 Supp. 65-6618, and amendments thereto. The application for renewal shall be accompanied by evidence satisfactory to the board that the

applicant has completed during the previous 24 months the continuing education required by rules and regulations of the board, *including not less than three hours in ethics*. In addition, as part of such continuing education, the *master's addiction counselor applicant and the clinical addiction counselor applicant shall complete not less than six continuing education hours relating to diagnosis and treatment of substance use disorders*. ~~Both the clinical addiction counselor applicant and the addiction counselor applicant shall complete not less than three continuing education hours of professional ethics.~~

(c) A person whose license has been suspended or revoked may make written application to the board requesting reinstatement of the license upon termination of the period of suspension or revocation in a manner prescribed by the board, which application shall be accompanied by the fee provided for by K.S.A. 2015 Supp. 65-6618, and amendments thereto.

(d) *Within 30 days after any change of permanent address, a licensee shall notify the board of such change.*

Sec. 59. K.S.A. 2015 Supp. 65-6615 is hereby amended to read as follows: 65-6615. (a) The board may refuse to grant licensure to, or may suspend, revoke, condition, limit, qualify or restrict the licensure issued under this act of any individual who the board, after the opportunity for a hearing, determines:

~~(a) issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for license:~~

~~(1) Is incompetent to practice addiction counseling, or is found to engage in the practice of addiction counseling in a manner harmful or dangerous to a client or to the public which means:~~

~~(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;~~

~~(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or~~

~~(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice addiction counseling;~~

~~(b) (2) is has been convicted by a court of competent jurisdiction of a felony, misdemeanor crimes against persons or substantiation of abuse against a child, adult or resident of a care facility, even if not practice related offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

(4) *is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;*

~~(c)~~ (5) *has violated a provision of the ~~addictions~~ addiction counselor licensure act or one or more of the rules and regulations of the board;*

~~(d)~~ (6) *has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;*

~~(e)~~ (7) *has knowingly made a false statement on a form required by the board for license or license renewal;*

~~(f)~~ (8) *has failed to obtain continuing education credits required by rules and regulations of the board;*

~~(g)~~ (9) *has been found ~~guilty of~~ to have engaged in unprofessional conduct as defined by *applicable* rules and regulations ~~established~~ adopted by the board; or*

~~(h)~~ (10) *has had a registration, license or certificate as an addiction counselor revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.*

(b) *For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a 2/3 majority vote.*

(c) *Administrative proceedings and disciplinary actions regarding licensure under the addiction counselor licensure act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the addiction counselor licensure act shall be in accordance with the Kansas judicial review act.*

Sec. 60. K.S.A. 2015 Supp. 65-6616 is hereby amended to read as follows: 65-6616. Nothing in the ~~addictions~~ addiction counselor licensure act shall be construed:

(a) To prevent addiction counseling practice by students or interns or individuals preparing for the practice of addiction counseling to practice under qualified supervision of a professional, recognized and approved by the board, in an educational institution or agency so long as they are designated by titles such as "student," "trainee," "intern" or other titles clearly indicating training status;

(b) to authorize the practice of psychology, medicine and surgery, professional counseling, marriage and family therapy, master's level psy-

chology or social work or other professions licensed by the behavioral sciences regulatory board;

(c) to apply to the activities and services of a rabbi, priest, minister, clergy person or organized ministry of any religious denomination or sect, including a Christian-Science practitioner, unless such person or individual who is a part of the organized ministry is a licensed addiction counselor;

(d) to apply to the activities and services of qualified members of other professional groups including, but not limited to, attorneys, physicians, psychologists, master's level psychologists, marriage and family therapists, professional counselors, or other professions licensed by the behavioral sciences regulatory board, registered nurses or social workers performing services consistent with the laws of this state, their training and the code of ethics of their profession, so long as they do not represent themselves as being an addiction counselor; or

(e) to prevent qualified persons from doing work within the standards and ethics of their respective professions and callings provided they do not hold themselves out to the public by any title or description of services as being an addiction counselor.

Sec. 61. K.S.A. 2015 Supp. 65-6617 is hereby amended to read as follows: 65-6617. (a) A person licensed under the ~~addictions~~ *addiction* counselor licensure act and employees and professional associates of the person shall not be required to disclose any information that the person, employee or associate may have acquired in rendering addiction counseling services, unless:

(1) Disclosure is required by other state laws;

(2) failure to disclose the information presents a clear and present danger to the health or safety of an individual;

(3) the person, employee or associate is a party defendant to a civil, criminal or disciplinary action arising from the therapy, in which case a waiver of the privilege accorded by this section is limited to that action;

(4) the client is a defendant in a criminal proceeding and the use of the privilege would violate the defendant's right to a compulsory process or the right to present testimony and witnesses in that person's behalf; or

(5) a client agrees to a waiver of the privilege accorded by this section, and in circumstances where more than one person in a family is receiving therapy, each such family member agrees to the waiver. Absent a waiver from each family member, an addiction counselor shall not disclose information received from a family member.

(b) Nothing in this section or in this act shall be construed to prohibit any person licensed under the ~~addictions~~ *addiction* counselor licensure act from testifying in court hearings concerning matters of adult abuse, adoption, child abuse, child neglect or other matters pertaining to the welfare of children or from seeking collaboration or consultation with

professional colleagues or administrative superiors, or both, on behalf of a client. There is no privilege under this section for information which is required to be reported to a public official.

Sec. 62. K.S.A. 2015 Supp. 65-6618 is hereby amended to read as follows: 65-6618. (a) The board ~~shall may fix by rules and regulations and shall collect~~ the following fees, *and any such fees shall be established by rules and regulations adopted by the board:*

(1) For application for licensure as an addiction counselor, not to exceed \$150;

(2) for original licensure as an addiction counselor, not to exceed \$150;

(3) for renewal ~~of a license~~ *for licensure* as an addiction counselor, not to exceed \$150;

(4) for a temporary license ~~as an addiction counselor~~, not to exceed \$100;

(5) *for application for licensure as a master's addiction counselor, not to exceed \$150;*

(6) *for original licensure as a master's addiction counselor, not to exceed \$150;*

(7) *for renewal for licensure as a master's addiction counselor, not to exceed \$150;*

(8) for application for licensure as a clinical addiction counselor, not to exceed \$150;

~~(6)~~ (9) for original licensure as a clinical addiction counselor, not to exceed \$150;

~~(7)~~ (10) for renewal for licensure as a clinical addiction counselor, not to exceed \$150;

~~(8)~~ (11) for a temporary permit to practice clinical addiction counseling, not to exceed \$200;

~~(9)~~ (12) for extension of a temporary permit to practice clinical addiction counseling, not to exceed \$200;

~~(10)~~ (13) for reinstatement of a license, not to exceed \$150;

~~(11)~~ (14) for replacement of a license, not to exceed \$20; ~~and~~

~~(12)~~ (15) for late renewal penalty, an amount equal to the fee for renewal; *and*

(16) *for a wallet license, not more than \$5.*

(b) The board shall require that fees paid for any examination under the ~~addictions~~ *addiction* counselor licensure act be paid directly to the examination services by the person taking the examination.

(c) Fees paid to the board are not refundable.

Sec. 63. K.S.A. 2015 Supp. 65-6620 is hereby amended to read as follows: 65-6620. A licensee under the ~~addictions~~ *addiction* counselor licensure act, at the beginning of a client-therapist relationship, shall inform the client of the level of such licensee's training and the title or titles

and license or licenses of such licensee. As a part of such obligation, such licensee shall disclose whether such licensee has a baccalaureate, master's degree or a doctoral degree. If such licensee has a doctoral degree, such licensee shall disclose whether or not such doctoral degree is a doctor of medicine degree or some other doctoral degree. If such licensee does not have a medical doctor's degree, such licensee shall disclose that the licensee is not authorized to practice medicine and surgery and is not authorized to prescribe drugs. As a part of such disclosure, such licensee shall advise the client that certain mental disorders can have medical or biological origins, and that the client should consult with a physician. Documentation of such disclosures to a client shall be made in the client's record.

Sec. 64. K.S.A. 2015 Supp. 74-5310 is hereby amended to read as follows: 74-5310. (a) The board shall issue a license as a psychologist to any person who pays an application fee prescribed by the board, *if required by the board*, not in excess of \$225 and, *if required by the board*, an original license fee not in excess of \$150, which shall not be refunded, who either satisfies the board as to such person's training and experience after a thorough review of such person's credentials and who passes a satisfactory examination in psychology. Any person paying the fee must also submit evidence verified by oath and satisfactory to the board that such person:

- (1) Is at least 21 years of age;
- (2) is of good moral character;
- (3) has received the doctor's degree based on a program of studies in content primarily psychological from an educational institution having a graduate program with standards consistent with those of the state universities of Kansas, or the substantial equivalent of such program in both subject matter and extent of training; and
- (4) has had at least two years of supervised experience, a significant portion of which shall have been spent in rendering psychological services satisfying the board's approved standards for the psychological service concerned.

(b) The board shall adopt rules and regulations establishing the criteria which an educational institution shall satisfy in meeting the requirements established under ~~item (3)~~ of subsection (a)(3). The board may send a questionnaire developed by the board to any educational institution for which the board does not have sufficient information to determine whether the educational institution meets the requirements of ~~item (3)~~ of subsection (a)(3) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the educational institution to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining in-

formation about educational institutions. In entering such contracts the authority to approve educational institutions shall remain solely with the board.

Sec. 65. K.S.A. 74-5311 is hereby amended to read as follows: 74-5311. ~~Examinations for applicants under this act shall be held by the board from time to time but not less than once each year. The board shall adopt rules and regulations governing the subject, scope, and form of the examinations for applicants under this act or shall contract with a national testing service to provide an examination approved by the board. The board shall prescribe an initial examination fee not to exceed \$350. If an applicant fails the first examination, such applicant may be admitted to any subsequent examination upon payment of an additional fee prescribed by the board not to exceed \$350. The examination fees prescribed by the board under this section shall be fixed by rules and regulations of the board.~~

Sec. 66. K.S.A. 2015 Supp. 74-5315 is hereby amended to read as follows: 74-5315. (a) The board may grant a license to any person who, at the time of application, is registered, certified or licensed as a psychologist at the doctoral level in another jurisdiction if the board determines that:

(1) The requirements of such jurisdiction for such certification or licensure are substantially the equivalent of the requirements of this state; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure as a psychologist at the doctoral level ~~during the five years for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) a doctoral degree in psychology from a regionally accredited university or college.

(b) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 74-5310, and amendments thereto, *if required by the board*.

Sec. 67. K.S.A. 2015 Supp. 74-5316 is hereby amended to read as follows: 74-5316. (a) Upon application, the board may issue temporary licenses to persons who have met all qualifications for licensure under provisions of the licensure of psychologists act of the state of Kansas, except passage of the required examination, pursuant to K.S.A. 74-5310, and amendments thereto, who must wait for completion of the next examination, who have paid the required application, examination and tem-

porary license fees and who have submitted documentation as required by the board, under the following:

(1) ~~The temporary license shall expire upon receipt and recording of the temporary licensee's second examination score by the board if such temporary licensee fails the examination after two attempts or upon the date the board issues or denies the temporary licensee a license to practice psychology if such temporary licensee passes the examination;~~

~~(2)~~ (2) Such temporary licensee shall take the next license examination subsequent to the date of issuance of the temporary license unless there are extenuating circumstances approved by the board;

~~(3)~~ (2) the board shall adopt rules and regulations prescribing continuing education requirements for temporary licensees, including, but not limited to, a requirement that temporary licensees shall complete a minimum of 25 contact hours of continuing education during the two-year period of temporary licensure, which shall include a minimum of three hours in psychology ethics;

~~(4)~~ (3) no person may work under a temporary license except under the supervision of a licensed psychologist as prescribed in rules and regulations adopted by the board; and

~~(5)~~ (4) the fee for such temporary license ~~shall~~ *may* be fixed by rules and regulations adopted by the board and shall not exceed \$200, ~~and any such fee shall be established by rules and regulations adopted by the board.~~

(b) Upon application, the board may issue temporary licenses not to exceed two years to persons who have *completed all requirements for a doctoral degree approved by the board but have not received such degree conferral or who have met all qualifications for licensure under provisions of such act, except completion of the postdoctoral supervised work experience pursuant to ~~subsection (a)(4) of K.S.A. 74-5310(a)(4), and amendments thereto,~~* who have paid the required application and temporary license fees and who have submitted documentation as required by the board, under the following:

(1) The temporary license shall expire at the end of the two-year period after issuance or if such temporary licensee is denied a license to practice psychology;

(2) the temporary license may be renewed for one additional two-year period after expiration;

(3) temporary licensees shall take the license examination pursuant to ~~subsection (a)(4) of K.S.A. 74-5310(a)(4), and amendments thereto,~~ subsequent to the date of issuance and prior to expiration of the temporary license unless there are extenuating circumstances approved by the board;

(4) temporary licensees shall be working toward the completion of the postdoctoral supervised work experience prescribed in ~~subsection (a)(4) of K.S.A. 74-5310(a)(4), and amendments thereto;~~

(5) the board shall adopt rules and regulations prescribing continuing education requirements for temporary licensees, including, but not limited to, a requirement that temporary licensees shall complete a minimum of 25 contact hours of continuing education during the two-year period of temporary licensure, which shall include a minimum of three hours in psychology ethics;

(6) no temporary licensee may work under a temporary license except under the supervision of a licensed psychologist as prescribed in rules and regulations adopted by the board; and

(7) the fee for a renewal of the temporary license ~~shall~~ *may* be fixed ~~by rules and regulations adopted~~ by the board and shall not exceed \$200 per issuance, *and any such fee shall be established by rules and regulations adopted by the board.*

(c) A person practicing psychology with a temporary license may not use the title “licensed psychologist” or the initials “LP” independently. The word “licensed” may be used only when preceded by the word “temporary” such as temporary licensed psychologist, or the initials “TLP.”

(d) This section shall be part of and supplemental to the provisions of article 53 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto.

(e) As used in this section, “temporary licensee” means any person practicing psychology with a temporary license pursuant to subsection (b) or (c) ~~of this section.~~

Sec. 68. K.S.A. 74-5318 is hereby amended to read as follows: 74-5318. ~~On or before the first day of April of alternate years, the board shall mail to every psychologist licensed in Kansas an application blank for renewal, which shall contain space for insertion of information as required for the application blank under K.S.A. 74-5317 and amendments thereto, addressing the same to the post office address given at the last previous renewal. In addition, The~~ (a) An application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed, during the previous 24 months, the continuing education required by rules and regulations of the board. As part of such continuing education, a licensed psychologist shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(b) *A licensee shall submit the application to the board with a renewal fee fixed by rules and regulations of the board not to exceed \$200. Upon receipt of such application and fee, the board shall issue a renewal license for the period commencing on the date on which the license is issued and expiring on June 30 of the next even-numbered year. Initial licenses shall be for the current biennium of registration.*

(c) *Applications for renewal of a license shall be made biennially on*

or before July 1 and, if not so made, an additional fee equal to the renewal fee shall be added to the regular renewal fee.

(d) Any psychologist who has failed to renew a license and continues to represent oneself as a psychologist after July 1 shall be in violation of the licensure of psychologists act of the state of Kansas. The board may suspend or revoke such psychologist's license under the provisions of K.S.A. 74-5324, and amendments thereto.

(e) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 69. K.S.A. 2015 Supp. 74-5324 is hereby amended to read as follows: 74-5324. ~~(a) The board may suspend, limit, revoke, condition or refuse to issue or renew a license of any psychologist upon proof that the psychologist:~~ (a) Has been convicted of a felony involving moral turpitude; or (b) has been guilty of fraud or deceit in connection with services rendered as a psychologist or in establishing qualifications under this act; or ~~(c) has aided or abetted a person, not a licensed psychologist, in representing such person as a psychologist in this state; or (d) has been guilty of unprofessional conduct as defined by rules and regulations established by the board; or (e) has been guilty of negligence or wrongful actions in the performance of duties; or (f) has knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement or (g) refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for a license:~~

(1) Is incompetent to practice psychology, which means:

(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;

(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice psychology;

(2) has been convicted of a felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has

not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(5) has violated a provision of the licensure of psychologists act of the state of Kansas or one or more rules and regulations of the board;

(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(7) has knowingly made a false statement on a form required by the board for a license or license renewal;

(8) has failed to obtain continuing education credits as required by rules and regulations of the board;

(9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board; or

(10) has had a registration, license or certificate as a psychologist revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a 2/3 majority vote.

(c) Administrative proceedings and disciplinary actions regarding licensure under the licensure of psychologists act of the state of Kansas shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the licensure of psychologists of the state of Kansas act shall be in accordance with the Kansas judicial review act.

Sec. 70. K.S.A. 74-5361 is hereby amended to read as follows: 74-5361. As used in this act:

(a) "Practice of psychology" shall have the meaning ascribed thereto in K.S.A. 74-5302 and amendments thereto.

(b) "Board" means the behavioral sciences regulatory board created by K.S.A. 74-7501 and amendments thereto.

(c) "~~Licensed—masters~~ *master's level psychologist*" means a person licensed by the board under the provisions of this act.

(d) "~~Licensed clinical psychotherapist~~ *means a person licensed by the board under this act who engages in the independent practice of masters master's level psychology including the diagnosis and treatment of mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations.*

(e) "~~Masters~~ *Master's level psychology*" means the practice of psychology pursuant to the restrictions set out in K.S.A. 74-5362, and amend-

ments thereto, and includes the diagnosis and treatment of mental disorders as authorized under K.S.A. 74-5361 et seq., *and amendments thereto*.

Sec. 71. K.S.A. 74-5362 is hereby amended to read as follows: 74-5362. (a) Any person who is licensed under the provisions of this act as a licensed ~~masters~~ *master's* level psychologist shall have the right to practice psychology ~~only insofar as such practice is part of the duties of such person's paid position and is performed solely on behalf of the employer,~~ so long as such practice is under the direction of a licensed clinical psychotherapist, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of mental disorders. When a client has symptoms of a mental disorder, a ~~licensed masters level psychologist~~ *licensee under the licensure of master's level psychologists act* shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed ~~masters~~ *master's* level psychologist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(b) A licensed ~~masters~~ *master's* level psychologist may use the title licensed ~~masters~~ *master's* level psychologist and the abbreviation LMLP but may not use the title licensed psychologist or psychologist. A licensed clinical psychotherapist may use the title licensed clinical psychotherapist and the abbreviation LCP but may not use the title licensed psychologist or psychologist.

Sec. 72. K.S.A. 74-5363 is hereby amended to read as follows: 74-5363. (a) Any person who desires to be licensed under this act shall apply to the board in writing, on forms prepared and furnished by the board. Each application shall contain appropriate documentation of the particular qualifications required by the board and shall be accompanied by the required fee.

(b) The board shall license as a licensed ~~masters~~ *master's* level psychologist any applicant for licensure who pays the fee prescribed by the board under K.S.A. 74-5365, and amendments thereto, which shall not be refunded, who has satisfied the board as to such applicant's training and who complies with the provisions of this subsection ~~(b)~~. An applicant for licensure also shall submit evidence ~~verified under oath~~ and satisfactory to the board that such applicant:

- (1) Is at least 21 years of age;
- (2) has satisfied the board that the applicant is a person who merits public trust;

(3) has received at least 60 graduate hours including a master's degree in psychology based on a program of studies in psychology from an educational institution having a graduate program in psychology consistent with state universities of Kansas; or until July 1, 2003, has received at least a master's degree in psychology and during such master's or post-master's coursework completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation, and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology; or has passed comprehensive examinations or equivalent final examinations in a doctoral program in psychology and during such graduate program completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation, and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology;

(4) has completed 750 clock hours of academically supervised practicum in the master's degree program or 1,500 clock hours of postgraduate supervised work experience;

(5) has passed an examination approved by the board with a minimum score set by the board by rules and regulations ~~at 10 percentage points below the score set by the board for licensed psychologists.~~

(c) (1) Applications for licensure as a clinical psychotherapist shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(A) Is licensed by the board as a licensed ~~masters~~ *master's* level psychologist or meets all requirements for licensure as a ~~masters~~ *master's* level psychologist;

(B) has completed 15 credit hours as part of or in addition to the requirements under subsection (b) supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, through identifiable study of ~~the following content areas:~~ Psychopathology, diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience including psychotherapy and assessment with individuals, couples, families or groups, integrating diagnosis and treatment of mental disorders with use of the American psychiatric

association's diagnostic and statistical manual, with not less than 350 hours of direct client contact or additional postgraduate supervised experience as determined by the board;

(D) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual;

(E) for persons earning a degree under subsection (b) prior to July 1, 2003, in lieu of the education requirements under ~~parts subparagraphs~~ (B) and (C) ~~of this subsection~~, has completed the education requirements for licensure as a licensed ~~masters~~ *master's* level psychologist in effect on the day immediately preceding the effective date of this act;

(F) for persons who apply for and are eligible for a temporary ~~permit~~ *license* to practice as a licensed ~~masters~~ *master's* level psychologist on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under ~~parts subparagraphs~~ (B), (C) and (D) ~~of this subsection~~, has completed the education and training requirements for licensure as a ~~masters~~ *master's* level psychologist in effect on the day immediately preceding the effective date of this act;

(G) has passed an examination approved by the board with the same minimum passing score as that set by the board for licensed psychologists; and

(H) has paid the application fee, *if required by the board*.

(2) A person who was licensed or registered as a ~~masters~~ *master's* level psychologist in Kansas at any time prior to the effective date of this act, who has been actively engaged in the practice of ~~masters~~ *master's* level psychology as a registered or licensed ~~masters~~ *master's* level psychologist within five years prior to the effective date of this act and whose last license or registration in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical psychotherapist by providing demonstration of competence to diagnose and treat mental disorders through at least two of the following areas acceptable to the board:

(A) Either: (i) Graduate coursework; or (ii) passing a national, clinical examination;

(B) either: (i) Three years of clinical practice in a community mental health center, its contracted affiliate or a state mental hospital; or (ii) three years of clinical practice in other settings with demonstrated experience in diagnosing or treating mental disorders; or

(C) attestation from one professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery that the applicant is competent to diagnose and treat mental disorders.

(3) A licensed clinical psychotherapist may engage in the independent practice of ~~masters~~ *master's* level psychology and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed clinical psychotherapist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed clinical psychotherapist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(d) The board shall adopt rules and regulations establishing the criteria which an educational institution shall satisfy in meeting the requirements established under ~~item (3) of~~ subsection (b)(3). The board may send a questionnaire developed by the board to any educational institution for which the board does not have sufficient information to determine whether the educational institution meets the requirements of ~~item (3) of~~ subsection (b)(3) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the educational institution to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about educational institutions. In entering such contracts the authority to approve educational institutions shall remain solely with the board.

Sec. 73. K.S.A. 74-5365 is hereby amended to read as follows: 74-5365. (a) ~~The application, issuance of a new license and renewal fee for licensure under this act shall~~ *following fees may be fixed by the board by rules and regulations in an amount not to exceed \$200. for licensure under the licensure of master's level psychologists act: For application, issuance of a new license and renewal of a license, an amount not to exceed \$200; for replacement of a license, an amount not to exceed \$20; and for a wallet card license, an amount not to exceed \$5. Any such fees required by the board shall be established by rules and regulations adopted by the board.*

(b) Fees paid to the board are not refundable.

(c) The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed, during the previous 24 months, the continuing education required by rules and reg-

ulations of the board. As part of such continuing education, a licensed ~~masters~~ *master's* level psychologist and a licensed clinical psychotherapist shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(d) *Within 30 days after any change of permanent address, a licensee shall notify the board of such change.*

Sec. 74. K.S.A. 2015 Supp. 74-5367 is hereby amended to read as follows: 74-5367. (a) The board may issue a temporary license to practice as a licensed ~~masters~~ *master's* level psychologist to any person who pays a fee prescribed by the board under this section, which shall not be refunded, and who meets all the requirements for licensure under K.S.A. 74-5361 et seq., and amendments thereto, as a licensed ~~masters~~ *master's* level psychologist except the requirement of postgraduate supervised work experience or passing the licensing examination, or both.

(b) ~~(1)~~ Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies a license to practice ~~masters~~ *master's* level psychology or 24 months after the date of issuance of the temporary license. No temporary license issued by the board will be renewed or issued again on any subsequent applications for the same license level. The preceding provision in no way limits the number of times an applicant may take the examination.

~~(2) A temporary licensee shall take the examination within the first 12 months subsequent to the issuance of the temporary license unless there are extenuating circumstances approved by the board or if the temporary licensee does not take the examination within the first 12 months subsequent to the issuance of the temporary license and no extenuating circumstances have been approved by the board, the temporary license will expire after the first 12 months.~~

(c) The board ~~shall~~ *may* fix by rules and regulations a fee for the application of the temporary license. The application fee shall not exceed \$100. *Any such fee shall be established by rules and regulations adopted by the board.*

(d) A person practicing ~~masters~~ *master's* level psychology with a temporary license may not use the title "licensed ~~masters~~ *master's* level psychologist" or the initials "LMLP" independently. The word "licensed" may be used only when followed by the words "by temporary license" such as licensed ~~masters~~ *master's* level psychologist by temporary license, or ~~masters~~ *master's* level psychologist licensed by temporary license.

(e) No person may work under a temporary license except under the supervision of a person licensed to practice psychology or ~~masters~~ *master's* level psychology in Kansas.

(f) The application for a temporary license may be denied or a tem-

porary license which has been issued may be suspended or revoked on the same grounds as provided for suspension or revocation of a license under K.S.A. 74-5369, and amendments thereto.

(g) Nothing in this section shall affect any temporary license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such temporary license.

Sec. 75. K.S.A. 2015 Supp. 74-5369 is hereby amended to read as follows: 74-5369. ~~An application for licensure under K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto, may be denied or a license granted under this act may be suspended, limited, revoked, have a condition placed on it or not renewed by the board upon proof that the applicant or licensee:~~

~~(a) Has been convicted of a felony involving moral turpitude;~~
~~(b) has been found guilty of fraud or deceit in connection with the rendering of professional services or in establishing such person's qualifications under this act;~~

~~(c) has aided or abetted a person not licensed as a psychologist, licensed under this act or an uncertified assistant, to hold oneself out as a psychologist in this state;~~

~~(d) has been guilty of unprofessional conduct as defined by rules and regulations of the board;~~

~~(e) has been guilty of neglect or wrongful duties in the performance of duties; or~~

~~(f) (a) The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for licensure:~~

~~(1) Is incompetent to practice psychology, which means:~~

~~(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;~~

~~(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or~~

~~(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice master's level psychology;~~

~~(2) has been convicted of a felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;~~

~~(3) has been convicted of a misdemeanor against persons and has not~~

demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) *is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;*

(5) *has violated a provision of the licensure of master's level psychologists act or one or more rules and regulations of the board;*

(6) *has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;*

(7) *has knowingly made a false statement on a form required by the board for a license or license renewal;*

(8) *has failed to obtain continuing education credits as required by rules and regulations adopted by the board;*

(9) *has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations of the board; or*

(10) *has had a registration, license or certificate as a ~~masters~~ master's level psychologist revoked, suspended or limited, or has had other disciplinary action taken, or an application for a registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.*

(b) *For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a 2/3 majority vote.*

(c) ~~Administrative proceedings under K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto, and disciplinary actions regarding licensure under the licensure of master's level psychologists act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto, the licensure of master's level psychologists act shall be in accordance with the Kansas judicial review act.~~

Sec. 76. K.S.A. 74-5370 is hereby amended to read as follows: 74-5370. The board may adopt rules and regulations to administer the provisions of ~~K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto~~ *the licensure of master's level psychologists act.*

Sec. 77. K.S.A. 2015 Supp. 74-5375 is hereby amended to read as follows: 74-5375. (a) The behavioral sciences regulatory board may issue a license to an individual who is currently registered, certified or licensed

to practice psychology at the ~~masters~~ *master's* level in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice psychology at the ~~masters~~ *master's* level in the other jurisdiction are substantially equivalent to the requirements of this state; or

(2) the applicant demonstrates, on forms provided by the board, compliance with the following standards adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure to practice psychology at the ~~masters~~ *master's* level ~~during the five years for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) a ~~masters~~ *master's* degree in psychology from a regionally accredited university or college.

(b) Applicants for licensure as a clinical psychotherapist shall additionally demonstrate competence to diagnose and treat mental disorders through meeting the requirements of either ~~paragraph (1) or (2) of~~ subsection (a)(1) or (a)(2) and at least two of the following areas acceptable to the board:

(1) Either graduate coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board;

(2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders; or

(3) attestation from a professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat mental disorders.

(c) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 74-5365, and amendments thereto, *if required by the board*.

Sec. 78. K.S.A. 2015 Supp. 74-5376 is hereby amended to read as follows: 74-5376. K.S.A. 74-5361 through ~~74-5375~~ 74-5374 and K.S.A. 2015 Supp. 74-5375, and amendments thereto, shall be known and may be cited as the licensure of ~~masters~~ *master's* level psychologists act.

Sec. 79. K.S.A. 2015 Supp. 74-7507 is hereby amended to read as follows: 74-7507. (a) The behavioral sciences regulatory board shall have the following powers, duties and functions:

(1) Recommend to the appropriate district or county attorneys prosecution for violations of this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-~~

~~5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the addictions addiction counselor licensure act;~~

(2) compile and publish annually a list of the names and addresses of all persons who are licensed under this act, are licensed under the licensure of psychologists act of the state of Kansas, ~~are licensed under the professional counselors licensure act, are licensed under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, are licensed under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ *the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act* or ~~are licensed under the addictions addiction counselor licensure act;~~

(3) prescribe the form and contents of examinations required under this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ *the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act* or ~~the addictions addiction counselor licensure act;~~

(4) enter into contracts necessary to administer this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ *the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act* or ~~the addictions addiction counselor licensure act;~~

(5) adopt an official seal;

(6) adopt and enforce rules and regulations for professional conduct of persons licensed under the licensure of psychologists act of the state of Kansas, ~~licensed under the professional counselors licensure act, licensed under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, licensed under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ *the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, licensed under the marriage and family therapists licensure act* or ~~licensed under the addictions addiction counselor licensure act;~~

(7) adopt and enforce rules and regulations establishing requirements for the continuing education of persons licensed under the licensure of psychologists act of the state of Kansas, ~~licensed under the professional~~

counselors licensure act, ~~licensed under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, licensed under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ *the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, licensed under the marriage and family therapists licensure act or licensed under the addictions addiction counselor licensure act;*

(8) adopt rules and regulations establishing classes of social work specialties which will be recognized for licensure under K.S.A. 65-6301 to 65-6318, inclusive, and amendments thereto;

(9) adopt rules and regulations establishing procedures for examination of candidates for licensure under the licensure of psychologists act of the state of Kansas, ~~for licensure under the professional counselors licensure act, for licensure under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, for licensure under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ *the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, for licensure under the marriage and family therapists licensure act, for licensure under the addictions addiction counselor licensure act and for issuance of such certificates and such licenses;*

(10) adopt rules and regulations as may be necessary for the administration of this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto~~ *the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act and the addictions addiction counselor licensure act and to carry out the purposes thereof;*

(11) appoint an executive director and other employees as provided in K.S.A. 74-7501, and amendments thereto; and

(12) exercise such other powers and perform such other functions and duties as may be prescribed by law.

(b) ~~The behavioral sciences regulatory board, in addition to any other penalty, may assess an administrative penalty, after notice and an opportunity to be heard, against a licensee or registrant for a violation of any of the provisions of the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto, the marriage and family therapists licensure act or the addictions counselor licensure act in an amount not to exceed \$1,000. 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.~~

(c) — If an order of the behavioral sciences regulatory board is adverse to a licensee or registrant of the board, the *actual* costs shall be charged to such person as in ordinary civil actions in the district court ~~in an amount not to exceed \$200~~. The board shall pay any additional costs and, if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed in accordance with statutes governing taxation of witness fees and costs in the district court.

Sec. 80. K.S.A. 2015 Supp. 74-7508 is hereby amended to read as follows: 74-7508. (a) In connection with any investigation, based upon a written complaint or other reasonably reliable written information, by the behavioral sciences regulatory 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 or office of a practitioner of the behavioral sciences, or other public or private agency if such document, report, record or other physical evidence relates to practices which may be grounds for disciplinary action.

(b) In all matters pending before the behavioral sciences regulatory board, the board shall have the power to administer oaths and take testimony. For the purpose of all investigations and proceedings conducted by the behavioral sciences regulatory board:

(1) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents, reports, records or any other physical evidence if such documents, reports, records or other physical evidence relates to practices which may be grounds for disciplinary action. Within five days after the service of the subpoena on any person requiring the production of any documents, reports, records or other physical 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 documents, reports, records or other physical evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the allegation which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the documents, reports, records or other 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 documents, reports, records or other physical evidence.

(2) The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or the board's duly authorized agent to produce documents, reports, records or other physical evidence relating to the matter under investigation; or

(B) 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 allegation which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the documents, reports, records or other physical evidence which is required to be produced.

(3) (A) If the board determines that an individual has practiced without a valid license a profession regulated by the board for which the practitioners of the profession are required by law to be licensed in order to practice the profession, in addition to any other penalties imposed by law, the board, in accordance with the Kansas administrative procedure act, may issue a cease and desist order against such individual.

(B) Whenever in the judgment of the behavioral sciences regulatory board any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto, the licensure of psychologists act, the marriage and family therapists licensure act or the alcohol and other drug abuse counselor registration act, or any valid rule or regulation of the board, the board may make application to any court of competent jurisdiction for an order enjoining such acts or practices, and upon a showing by the board that such person has engaged, or is about to engage in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court without bond.

(c) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the behavioral sciences regulatory board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information except the information may be disclosed:

(1) In any proceeding conducted by the board under the law or in an appeal of an order of the board entered in a proceeding, or to any party to a proceeding or appeal or the party's attorney;

(2) to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information; or

(3) to a state or federal licensing, regulatory or enforcement agency

with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would constitute grounds for action under this act. Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be redisclosed by the receiving agency except as otherwise authorized by law.

(d) Nothing in this section or any other provision of law making communications between a practitioner of one of the behavioral sciences and the practitioner's client or patient a privileged or confidential communication shall apply to investigations or proceedings conducted pursuant to this section. The behavioral sciences regulatory board and its employees, agents and representatives shall keep in confidence the content and the names of any clients or patients whose records are reviewed during the course of investigations and proceedings pursuant to this section.

(e) In all matters pending before the behavioral sciences regulatory board, the board shall have the power to revoke the license or registration of any licensee or registrant who voluntarily surrenders such person's license or registration pending investigation of misconduct or while charges of misconduct against the licensee are pending or anticipated.

(f) In all matters pending before the behavioral sciences regulatory board, the board shall have the option to censure the licensee or registrant in lieu of other disciplinary action.

Sec. 81. K.S.A. 2015 Supp. 59-29b46 is hereby amended to read as follows: 59-29b46. When used in the care and treatment act for persons with an alcohol or substance abuse problem:

(a) "Discharge" means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to K.S.A. 59-29b50, and amendments thereto, or by an order of a court issued pursuant to K.S.A. 59-29b73, and amendments thereto.

(b) "Head of a treatment facility" means the administrative director of a treatment facility or such person's designee.

(c) "Law enforcement officer" ~~shall have the meaning ascribed to it means the same as defined in K.S.A. 22-2202, and amendments thereto.~~

(d) "Licensed addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed by the behavioral sciences regulatory board. Such person shall engage in the practice of addiction counseling in a state-licensed or certified alcohol and other drug treatment program or while completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 2015 Supp. 75-7d01 through 75-7d13, and amendments thereto, unless otherwise exempt from licensure under subsection (n).

(e) "Licensed clinical addiction counselor" means a person who engages in the independent practice of addiction counseling and diagnosis

and treatment of substance use disorders specified in the edition of the American psychiatric association's diagnostic and statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed by the behavioral sciences regulatory board.

(f) "Licensed master's addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person may diagnose substance use disorders only under the direction of a licensed clinical addiction counselor, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of substance abuse disorders or mental disorders.

(g) "Other facility for care or treatment" means any mental health clinic, medical care facility, nursing home, the detox units at either Osawatomie state hospital or Larned state hospital, any physician or any other institution or individual authorized or licensed by law to give care or treatment to any person.

~~(e)~~ (h) "Patient" means a person who is a voluntary patient, a proposed patient or an involuntary patient.

(1) "Voluntary patient" means a person who is receiving treatment at a treatment facility pursuant to K.S.A. 59-29b49, and amendments thereto.

(2) "Proposed patient" means a person for whom a petition pursuant to K.S.A. 59-29b52 or 59-29b57, and amendments thereto, has been filed.

(3) "Involuntary patient" means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to ~~subsection (b) or (c)~~ of K.S.A. 59-29b54(b) or (c), and amendments thereto.

~~(f)~~ (i) "Person with an alcohol or substance abuse problem" means a person who: (1) Lacks self-control as to the use of alcoholic beverages or any substance as defined in ~~subsection (k)~~ (m); or

(2) uses alcoholic beverages or any substance ~~as defined in subsection (k)~~ to the extent that the person's health may be substantially impaired or endangered without treatment.

~~(g)~~ (j) (1) "Person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment" means a person with an alcohol or substance abuse problem, ~~as defined in subsection (f)~~, who also is incapacitated by alcohol or any substance and is likely to cause harm to self or others.

(2) "Incapacitated by alcohol or any substance" means that the person, as the result of the use of alcohol or any substance ~~as defined in subsection (k)~~, has impaired judgment resulting in the person:

(A) Being incapable of realizing and making a rational decision with respect to the need for treatment; or

(B) lacking sufficient understanding or capability to make or com-

municate responsible decisions concerning either the person's well-being or estate.

(3) "Likely to cause harm to self or others" means that the person, by reason of the person's use of alcohol or any substance: (A) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty; or

(B) is substantially unable, except for reason of indigency, to provide for any of the person's basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person's ability to function on the person's own.

~~(h)~~ (k) "Physician" means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within that hospital or agency.

~~(i)~~ (l) "Psychologist" means a licensed psychologist, as defined by K.S.A. 74-5302, and amendments thereto.

~~(j)~~ "State certified alcohol and drug abuse counselor" means a person approved by the secretary for aging and disability services to perform assessments using the American Society of Addiction Medicine criteria and employed at a state funded and designated assessment center.

~~(k)~~ (m) "Substance" means: (1) The same as the term "controlled substance" as defined in K.S.A. 2015 Supp. 21-5701, and amendments thereto; or

(2) fluorocarbons, toluene or volatile hydrocarbon solvents.

~~(l)~~ (n) "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to persons with an alcohol or substance abuse problem.

~~(m)~~ (o) (1) "Treatment facility" means a treatment program, public or private treatment facility, or any facility of the United States government available to treat a person for an alcohol or other substance abuse problem, but such term shall not include a licensed medical care facility, a licensed adult care home, a facility licensed under K.S.A. 75-3307b, and amendments thereto, a community-based alcohol and drug safety action program certified under K.S.A. 8-1008, and amendments thereto, and performing only those functions for which the program is certified to perform under K.S.A. 8-1008, and amendments thereto, or a professional licensed by the behavioral sciences regulatory board to diagnose and treat

mental disorders at the independent level or a physician, who may treat in the usual course of the behavioral sciences regulatory board licensee's or physician's professional practice individuals incapacitated by alcohol or other substances, but who are not primarily engaged in the usual course of the individual's professional practice in treating such individuals, or any state institution, even if detoxification services may have been obtained at such institution.

(2) "Private treatment facility" means a private agency providing facilities for the care and treatment or lodging of persons with either an alcohol or other substance abuse problem and meeting the standards prescribed in either K.S.A. 65-4013 or 65-4603, and amendments thereto, and licensed under either K.S.A. 65-4014 or 65-4607, and amendments thereto.

(3) "Public treatment facility" means a treatment facility owned and operated by any political subdivision of the state of Kansas and licensed under either K.S.A. 65-4014 or 65-4603, and amendments thereto, as an appropriate place for the care and treatment or lodging of persons with an alcohol or other substance abuse problem.

(4) (p) The terms defined in K.S.A. 59-3051, and amendments thereto, shall have the meanings provided by that section.

Sec. 82. K.S.A. 59-29b54 is hereby amended to read as follows: 59-29b54. (a) A treatment facility may admit and detain any person for emergency observation and treatment upon an ex parte emergency custody order issued by a district court pursuant to K.S.A. 59-29b58, and amendments thereto.

(b) A treatment facility or the detox unit at Osawatomie state hospital or at Larned state hospital may admit and detain any person presented for emergency observation and treatment upon written application of a law enforcement officer having custody of that person pursuant to K.S.A. 59-29b53, and amendments thereto. The application shall state:

(1) The name and address of the person sought to be admitted, if known;

(2) the name and address of the person's spouse or nearest relative, if known;

(3) the officer's belief that the person is or may be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment and is likely to cause harm to self or others if not immediately detained;

(4) the factual circumstances in support of that belief and the factual circumstances under which the person was taken into custody including any known pending criminal charges; and

(5) the fact that the law enforcement officer will file the petition provided for in K.S.A. 59-29b57, and amendments thereto, by the close of business of the first day thereafter that the district court is open for

the transaction of business, or that the officer has been informed by a parent, legal guardian or other person, whose name shall be stated in the application will file the petition provided for in K.S.A. 59-29b57, and amendments thereto, within that time.

(c) A treatment facility may admit and detain any person presented for emergency observation and treatment upon the written application of any individual. The application shall state:

(1) The name and address of the person sought to be admitted, if known;

(2) the name and address of the person's spouse or nearest relative, if known;

(3) the applicant's belief that the person may be a person with an alcohol or substance abuse problem subject to involuntary commitment and is likely to cause harm to self or others if not immediately detained;

(4) the factual circumstances in support of that belief;

(5) any pending criminal charges, if known;

(6) the fact that the applicant will file the petition provided for in K.S.A. 59-29b57, and amendments thereto, by the close of business of the first day thereafter that the district court is open for the transaction of business; and

(7) the application shall also be accompanied by a statement in writing of a physician, psychologist or ~~state certified alcohol and drug abuse licensed addiction~~ counselor finding that the person is likely to be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act.

(d) Any treatment facility or personnel thereof, who in good faith renders treatment in accordance with law to any person admitted pursuant to subsection (b) or (c), shall not be liable in a civil or criminal action based upon a claim that the treatment was rendered without legal consent.

Sec. 83. K.S.A. 59-29b61 is hereby amended to read as follows: 59-29b61. (a) The order for an evaluation required by ~~subsection (a)(5) of~~ K.S.A. 59-29b60(a)(5), and amendments thereto, shall be served in the manner provided for in ~~a subsections (c) and (d) of~~ K.S.A. 59-29b63(c) and (d), and amendments thereto. It shall order the proposed patient to submit to an evaluation to be conducted by a physician, psychologist or ~~state certified alcohol and drug abuse licensed addiction~~ counselor and to undergo such other medical examinations or evaluations as may be designated by the court in the order, except that any proposed patient who is not subject to a temporary custody order issued pursuant to K.S.A. 59-29b59, and amendments thereto, and who requests a hearing pursuant to K.S.A. 59-29b62, and amendments thereto, need not submit to such evaluations or examinations until that hearing has been held and the court finds that there is probable cause to believe that the proposed patient is

a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act. The evaluation may be conducted at a treatment facility, the home of the proposed patient or any other suitable place that the court determines is not likely to have a harmful effect on the welfare of the proposed patient.

(b) At the time designated by the court in the order, but in no event later than three days prior to the date of the trial provided for in K.S.A. 59-29b65, and amendments thereto, the examiner shall submit to the court a report, in writing, of the evaluation which report also shall be made available to counsel for the parties at least three days prior to the trial. The report also shall be made available to the proposed patient and to whomever the patient directs, unless for good cause recited in the order, the court orders otherwise. Such report shall state that the examiner has made an examination of the proposed patient and shall state the opinion of the examiner on the issue of whether or not the proposed patient is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act and the examiner's opinion as to the least restrictive treatment alternative which will protect the proposed patient and others and allow for the improvement of the proposed patient if treatment is ordered.

Sec. 84. K.S.A. 2015 Supp. 59-3077 is hereby amended to read as follows: 59-3077. (a) At any time after the filing of the petition provided for in K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, any person may file in addition to that original petition, or as a part thereof, or at any time after the appointment of a temporary guardian as provided for in K.S.A. 59-3073, and amendments thereto, or a guardian as provided for in K.S.A. 59-3067, and amendments thereto, the temporary guardian or guardian may file, a verified petition requesting that the court grant authority to the temporary guardian or guardian to admit the proposed ward or ward to a treatment facility, as defined in subsection (h), and to consent to the care and treatment of the proposed ward or ward therein. The petition shall include:

(1) The petitioner's name and address, and if the petitioner is the proposed ward's or ward's court appointed temporary guardian or guardian, that fact;

(2) the proposed ward's or ward's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the proposed ward's or ward's permanent residence;

(3) the name and address of the proposed ward's or ward's court appointed temporary guardian or guardian, if different from the petitioner;

(4) the factual basis upon which the petitioner alleges the need for the proposed ward or ward to be admitted to and treated at a treatment facility, or for the proposed ward or ward to continue to be treated at the

treatment facility to which the proposed ward or ward has already been admitted, or for the guardian to have continuing authority to admit the ward for care and treatment at a treatment facility pursuant to ~~subsection (b)(3) of K.S.A. 59-2949, (b)(3) or subsection (b)(3) of K.S.A. 59-29b49(b)(3),~~ and amendments thereto;

(5) the names and addresses of witnesses by whom the truth of this petition may be proved; and

(6) a request that the court find that the proposed ward or ward is in need of being admitted to and treated at a treatment facility, and that the court grant to the temporary guardian or guardian the authority to admit the proposed ward or ward to a treatment facility and to consent to the care and treatment of the proposed ward or ward therein.

(b) The petition may be accompanied by a report of an examination and evaluation of the proposed ward or ward conducted by an appropriately qualified professional, which shows that the criteria set out in K.S.A. 39-1803, ~~subsection (e) of K.S.A. 59-2946(e), subsection (f) of K.S.A. 59-29b46(i) or K.S.A. 76-12b03,~~ and amendments thereto, are met.

(c) Upon the filing of such a petition, the court shall issue the following:

(1) An order fixing the date, time and place of a hearing on the petition. Such hearing, in the court's discretion, may be conducted in a courtroom, a treatment facility or at some other suitable place. The time fixed in the order shall in no event be earlier than seven days or later than 21 days after the date of the filing of the petition. The court may consolidate this hearing with the trial upon the original petition filed pursuant to K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, or with the trial provided for in the care and treatment act for mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem, if the petition also incorporates the allegations required by, and is filed in compliance with, the provisions of either of those acts.

(2) An order requiring that the proposed ward or ward appear at the time and place of the hearing on the petition unless the court makes a finding prior to the hearing that the presence of the proposed ward or ward will be injurious to the person's health or welfare, or that the proposed ward's or ward's impairment is such that the person could not meaningfully participate in the proceedings, or that the proposed ward or ward has filed with the court a written waiver of such ward's right to appear in person. In any such case, the court shall enter in the record of the proceedings the facts upon which the court has found that the presence of the proposed ward or ward at the hearing should be excused. Notwithstanding the foregoing provisions of this subsection, if the proposed ward or ward files with the court at least one day prior to the date of the hearing a written notice stating the person's desire to be present

at the hearing, the court shall order that the person must be present at the hearing.

(3) An order appointing an attorney to represent the proposed ward or ward. The court shall give preference, in the appointment of this attorney, to any attorney who has represented the proposed ward or ward in other matters, if the court has knowledge of that prior representation. The proposed ward, or the ward with the consent of the ward's conservator, if one has been appointed, shall have the right to engage an attorney of the proposed ward's or ward's choice and, in such case, the attorney appointed by the court shall be relieved of all duties by the court. Any appointment made by the court shall terminate upon a final determination of the petition and any appeal therefrom, unless the court continues the appointment by further order.

(4) An order fixing the date, time and a place that is in the best interest of the proposed ward or ward, at which the proposed ward or ward shall have the opportunity to consult with such ward's attorney. This consultation shall be scheduled to occur prior to the time at which the examination and evaluation ordered pursuant to subsection (d)(1), if ordered, is scheduled to occur.

(5) A notice similar to that provided for in K.S.A. 59-3066, and amendments thereto.

(d) Upon the filing of such a petition, the court may issue the following:

(1) An order for a psychological or other examination and evaluation of the proposed ward or ward, as may be specified by the court. The court may order the proposed ward or ward to submit to such an examination and evaluation to be conducted through a general hospital, psychiatric hospital, community mental health center, community developmental disability organization, or by a private physician, psychiatrist, psychologist or other person appointed by the court who is qualified to examine and evaluate the proposed ward or ward. The costs of this examination and evaluation shall be assessed as provided for in K.S.A. 59-3094, and amendments thereto.

(2) If the petition is accompanied by a report of an examination and evaluation of the proposed ward or ward as provided for in subsection (b), an order granting temporary authority to the temporary guardian or guardian to admit the proposed ward or ward to a treatment facility and to consent to the care and treatment of the proposed ward or ward therein. Any such order shall expire immediately after the hearing upon the petition, or as the court may otherwise specify, or upon the discharge of the proposed ward or ward by the head of the treatment facility, if the proposed ward or ward is discharged prior to the time at which the order would otherwise expire.

(3) For good cause shown, an order of continuance of the hearing.

(4) For good cause shown, an order of advancement of the hearing.

(5) For good cause shown, an order changing the place of the hearing.

(e) The hearing on the petition shall be held at the time and place specified in the court's order issued pursuant to subsection (c), unless an order of advancement, continuance, or a change of place of the hearing has been issued pursuant to subsection (d). The petitioner and the proposed ward or ward shall each be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses. If the hearing has been consolidated with a trial being held pursuant to either the care and treatment act for mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem, persons not necessary for the conduct of the proceedings may be excluded as provided for in those acts. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall have the authority to receive all relevant and material evidence which may be offered, including the testimony or written report, findings or recommendations of any professional or other person who has examined or evaluated the proposed ward or ward pursuant to any order issued by the court pursuant to subsection (d). Such evidence shall not be privileged for the purpose of this hearing.

(f) Upon completion of the hearing, if the court finds by clear and convincing evidence that the criteria set out in K.S.A. 39-1803, ~~subsection (e) of K.S.A. 59-2946(e), subsection (f) of K.S.A. 59-29b46(i) or K.S.A. 76-12b03,~~ and amendments thereto, are met, and after a careful consideration of reasonable alternatives to admission of the proposed ward or ward to a treatment facility, the court may enter an order granting such authority to the temporary guardian or guardian as is appropriate, including continuing authority to the guardian to readmit the ward to an appropriate treatment facility as may later become necessary. Any such grant of continuing authority shall expire two years after the date of final discharge of the ward from such a treatment facility if the ward has not had to be readmitted to a treatment facility during that two-year period of time. Thereafter, any such grant of continuing authority may be renewed only after the filing of another petition seeking authority in compliance with the provision of this section.

(g) Nothing herein shall be construed so as to prohibit the head of a treatment facility from admitting a proposed ward or ward to that facility as a voluntary patient if the head of the treatment facility is satisfied that the proposed ward or ward at that time has the capacity to understand such ward's illness and need for treatment, and to consent to such ward's admission and treatment. Upon any such admission, the head of the treatment facility shall give notice to the temporary guardian or guardian as soon as possible of the ward's admission, and shall provide to the temporary guardian or guardian copies of any consents the proposed ward or ward has given. Thereafter, the temporary guardian or guardian shall timely either seek to obtain proper authority pursuant to this section to

admit the proposed ward or ward to a treatment facility and to consent to further care and treatment, or shall otherwise assume responsibility for the care of the proposed ward or ward, consistent with the authority of the temporary guardian or guardian, and may arrange for the discharge from the facility of the proposed ward or ward, unless the head of the treatment facility shall file a petition requesting the involuntary commitment of the proposed ward or ward to that or some other facility.

(h) As used herein, “treatment facility” means the Kansas neurological institute, Larned state hospital, Osawatomie state hospital, Parsons state hospital and training center, the rainbow mental health facility, any intermediate care facility for people with intellectual disability, any psychiatric hospital licensed pursuant to K.S.A. 75-3307b, and amendments thereto, and any other facility for mentally ill persons or people with intellectual or developmental disabilities licensed pursuant to K.S.A. 75-3307b, and amendments thereto, if the proposed ward or ward is to be admitted as an inpatient or resident of that facility.

Sec. 85. K.S.A. 65-4016 is hereby amended to read as follows: 65-4016. The secretary shall adopt rules and regulations with respect to treatment facilities to be licensed and designed to further the accomplishment of the purposes of this law in promoting a safe and adequate treatment program for individuals in treatment facilities in the interest of public health, safety and welfare ~~including, but not limited to, minimum qualifications for employees of licensed or certified programs which are less than the qualifications required for a registered alcohol and other drug abuse counselor.~~ Boards of trustees or directors of institutions licensed under this act shall have the right to select the professional staff members of such institutions and to select and employ interns, nurses and other personnel.

Sec. 86. K.S.A. 2015 Supp. 65-4024a is hereby amended to read as follows: 65-4024a. As used in this act:

(a) “Act” means the alcohol or other drug addiction treatment act.

(b) “Alcohol or other drug addiction” means a pattern of substance use, leading to significant impairment or distress, manifested by three or more of the following occurring at any time in the same 12-month period:

(1) Tolerance, defined as: (A) A need for markedly increased amounts of the substance to achieve intoxication or desired effect; or (B) a markedly diminished effect with continued use of the same amount of substance;

(2) withdrawal, as manifested by either of the following: (A) The characteristic withdrawal syndrome for the substance; or (B) the same or a closely related substance is taken to relieve or avoid withdrawal symptoms;

(3) the substance is often taken in larger amounts or over a longer period than was intended;

(4) there is a persistent desire or unsuccessful efforts to cut down or control substance use;

(5) a great deal of time is spent in activities necessary to obtain the substance, use the substance or recover from its effects;

(6) important social, occupational or recreational activities are given up or reduced because of substance use;

(7) the substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance.

(c) “Care or treatment” means such necessary services as are in the best interests of the physical and mental health of the patient.

(d) “Committee” means the Kansas citizens committee on alcohol and other drug abuse.

~~(e) “Counselor” means an individual whose education, experience and training has been evaluated and approved by the Kansas department for aging and disability services to provide the scope of practice afforded to an alcohol and drug credentialed counselor or counselor assistant working in a licensed, certified alcohol and drug treatment program.~~

~~(f) “Department” means the Kansas department for aging and disability services.~~

~~(g)~~ (f) “Designated state funded assessment center” or “assessment center” means a treatment facility designated by the secretary.

~~(h)~~ (g) “Discharge” ~~shall have the meaning ascribed to it~~ *means the same as defined in K.S.A. 59-29b46, and amendments thereto.*

~~(i)~~ (h) “Government unit” means any county, municipality or other political subdivision of the state; or any department, division, board or other agency of any of the foregoing.

~~(j)~~ (i) “Head of the treatment facility” ~~shall have the meaning ascribed to it~~ *means the same as defined in K.S.A. 59-29b46, and amendments thereto.*

~~(k)~~ (j) “Incapacitated by alcohol” ~~shall have the meaning ascribed to it~~ *means the same as defined in K.S.A. 59-29b46, and amendments thereto.*

~~(l)~~ (k) “Intoxicated individual” means an individual who is under the influence of alcohol or drugs or both.

~~(m)~~ (l) “Law enforcement officer” ~~shall have the meaning ascribed to it~~ *means the same as defined in K.S.A. 59-29b46, and amendments thereto.*

(m) “Licensed addiction counselor” *means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed by the behavioral sciences regulatory board. Such person shall engage in the practice of addiction counseling in a state-licensed or certified alcohol and other drug treatment program or while completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 2015*

Supp. 75-7d01 through 75-7d13, and amendments thereto, unless otherwise exempt from licensure under K.S.A. 59-29b46(n), and amendments thereto.

(n) “Licensed clinical addiction counselor” means a person who engages in the independent practice of addiction counseling and diagnosis and treatment of substance use disorders specified in the edition of the American psychiatric association’s diagnostic and statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed by the behavioral sciences regulatory board.

(o) “Licensed master’s addiction counselor” means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person may diagnose substance use disorders only under the direction of a licensed clinical addiction counselor, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of substance abuse disorders or mental disorders.

(p) “Patient” ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(q)~~ (q) “Private treatment facility” ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(r)~~ (r) “Public treatment facility” ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(s)~~ (s) “Treatment” ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(t)~~ (t) “Treatment facility” ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(u)~~ (u) “Secretary” means the secretary for aging and disability services.

New Sec. 87. This act shall be known and may be cited as the interstate medical licensure compact.

INTERSTATE MEDICAL LICENSURE COMPACT SECTION 1 PURPOSE

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the interstate medical licensure compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not

otherwise change a state's existing medical practice act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

SECTION 2 DEFINITIONS

In this compact:

(a) "Bylaws" means those bylaws established by the interstate commission pursuant to section 11 for its governance, or for directing and controlling its actions and conduct.

(b) "Commissioner" means the voting representative appointed by each member board pursuant to section 11.

(c) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

(d) "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the compact.

(e) "Interstate commission" means the interstate commission created pursuant to section 11.

(f) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

(g) "Medical practice act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(h) "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation and education of physicians as directed by the state government.

(i) "Member state" means a state that has enacted the compact.

(j) "Practice of medicine" means the clinical prevention, diagnosis or treatment of human disease, injury or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.

(k) "Physician" means any person who:

(1) Is a graduate of a medical school accredited by the liaison committee on medical education, the commission on osteopathic college ac-

creditation or a medical school listed in the international medical education directory or its equivalent;

(2) passed each component of the United States medical licensing examination (USMLE) or the comprehensive osteopathic medical licensing examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(3) successfully completed graduate medical education approved by the accreditation council for graduate medical education or the American osteopathic association;

(4) holds specialty certification or a time-unlimited specialty certificate recognized by the American board of medical specialties or the American osteopathic association's bureau of osteopathic specialists;

(5) possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(6) has never been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

(7) has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to non-payment of fees related to a license;

(8) has never had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration; and

(9) is not under active investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction.

(l) "Offense" means a felony, gross misdemeanor or crime of moral turpitude.

(m) "Rule" means a written statement by the interstate commission promulgated pursuant to section 12 of the compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural or practice requirement of the interstate 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.

(n) "State" means any state, commonwealth, district or territory of the United States.

(o) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

SECTION 3 ELIGIBILITY

(a) A physician must meet the eligibility requirements as defined in section 2(k) to receive an expedited license under the terms and provisions of the compact.

(b) A physician who does not meet the requirements of section 2(k) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

SECTION 4 DESIGNATION OF STATE OF PRINCIPAL LICENSE

(a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

- (1) The state of primary residence for the physician;
- (2) the state where at least 25% of the practice of medicine occurs;
- (3) the location of the physician's employer; or
- (4) if no state qualifies under subsection (a)(1), subsection (a)(2) or subsection (a)(3), the state designated as state of residence for purpose of federal income tax.

(b) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (a).

(c) The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

SECTION 5 APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

(a) A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission.

(1) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

(2) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, 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 5 C.F.R. § 731.202.

(3) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(c) Upon verification in subsection (b), physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to subsection (a), including the payment of any applicable fees.

(d) After receiving verification of eligibility under subsection (b) and any fees under subsection (c), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained through the compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without redesignation of a new state of principal licensure.

(g) The interstate commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

SECTION 6 FEES FOR EXPEDITED LICENSURE

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

(b) The interstate commission is authorized to develop rules regarding fees for expedited licenses.

SECTION 7 RENEWAL AND CONTINUED PARTICIPATION

(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:

(1) Maintains a full and unrestricted license in a state of principal license;

(2) has not been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

(3) has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to non-payment of fees related to a license; and

(4) has not had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.

(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected in subsection (c), a member board shall renew the physician's license.

(e) Physician information collected by the interstate commission during the renewal process will be distributed to all member boards.

(f) The interstate commission is authorized to develop rules to address renewal of licenses obtained through the compact.

SECTION 8 COORDINATED INFORMATION SYSTEM

(a) The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under section 5.

(b) Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

(d) Member boards may report any non-public complaint, disciplinary or investigatory information not required by subsection (c) to the interstate commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the interstate commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(g) The interstate commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

SECTION 9 JOINT INVESTIGATIONS

(a) Licensure and disciplinary records of physicians are deemed investigative.

(b) In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(c) A subpoena issued by a member state shall be enforceable in other member states.

(d) Member boards may share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

SECTION 10 DISCIPLINARY ACTIONS

(a) Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct, which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.

(b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.

(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

(1) Impose the same or lesser sanctions against the physician so long as such sanctions are consistent with the medical practice act of that state; or

(2) pursue separate disciplinary action against the physician under its

respective medical practice act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license issued to the physician by any other member board shall be suspended, automatically and immediately without further action necessary by the other member boards, for 90 days upon entry of the order by the disciplining board, to permit the member boards to investigate the basis for the action under the medical practice act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the 90-day suspension period in a manner consistent with the medical practice act of that state.

SECTION 11 INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

(a) The member states hereby create the interstate medical licensure compact commission.

(b) The purpose of the interstate commission is the administration of the interstate medical licensure compact, which is a discretionary state function.

(c) The interstate commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth in the compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.

(d) The interstate commission shall consist of two voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A commissioner shall be:

(1) An allopathic or osteopathic physician appointed to a member board;

(2) an executive director, executive secretary or similar executive of a member board; or

(3) a member of the public appointed to a member board.

(e) The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

(g) Each commissioner participating at a meeting of the interstate commission is entitled to one vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d).

(h) The interstate commission shall provide public notice of all meetings and all meetings shall be open to the public. The interstate commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the commissioners present that an open meeting would be likely to:

(1) Relate solely to the internal personnel practices and procedures of the interstate commission;

(2) discuss matters specifically exempted from disclosure by federal statute;

(3) discuss trade secrets, commercial or financial information that is privileged or confidential;

(4) involve accusing a person of a crime, or formally censuring a person;

(5) discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) discuss investigative records compiled for law enforcement purposes; or

(7) specifically relate to the participation in a civil action or other legal proceeding.

(i) The interstate commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(j) The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by its rules, available to the public for inspection.

(k) The interstate commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as necessary.

(l) The interstate commission may establish other committees for governance and administration of the compact.

SECTION 12
POWERS AND DUTIES OF
THE INTERSTATE COMMISSION

The interstate commission shall have the duty and power to:

- (a) Oversee and maintain the administration of the compact;
- (b) promulgate rules which shall be binding to the extent and in the manner provided for in the compact;
- (c) issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules and actions;
- (d) enforce compliance with compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process;
- (e) establish and appoint committees including, but not limited to, an executive committee as required by section 11, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties;
- (f) pay, or provide for the payment of the expenses related to the establishment, organization and ongoing activities of the interstate commission;
- (g) establish and maintain one or more offices;
- (h) borrow, accept, hire or contract for services of personnel;
- (i) purchase and maintain insurance and bonds;
- (j) employ an executive director who shall have such powers to employ, select or appoint employees, agents or consultants, and to determine their qualifications, define their duties and fix their compensation;
- (k) establish personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;
- (l) accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of it in a manner consistent with the conflict of interest policies established by the interstate commission;
- (m) lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed;
- (n) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
- (o) establish a budget and make expenditures;
- (p) adopt a seal and bylaws governing the management and operation of the interstate commission;
- (q) report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the

preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the interstate commission;

- (r) coordinate education, training and public awareness regarding the compact, its implementation and its operation;
- (s) maintain records in accordance with the bylaws;
- (t) seek and obtain trademarks, copyrights and patents; and
- (u) perform such functions as may be necessary or appropriate to achieve the purposes of the compact.

SECTION 13 FINANCE POWERS

(a) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(b) The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(c) The interstate commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(d) The interstate commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the interstate commission.

SECTION 14 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within 12 months of the first interstate commission meeting.

(b) The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice-chairperson and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission.

(c) Officers selected in subsection (b) shall serve without remuneration from the interstate commission.

(d) The officers and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities; provided that such person shall not be protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(1) The liability of the executive director and employees of the interstate commission or representatives of the interstate commission, acting within the scope of such person's employment or duties for acts, errors or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(2) The interstate commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, member state or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

SECTION 15
RULEMAKING FUNCTIONS OF
THE INTERSTATE COMMISSION

(a) The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the interstate commission shall be made pursuant to a rulemaking process that substantially conforms to the “model state administrative procedure act” of 2010, and subsequent amendments thereto.

(c) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

SECTION 16
OVERSIGHT OF INTERSTATE COMPACT

(a) The executive, legislative and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact’s purposes and intent. The provisions of the compact and the rules promulgated hereunder shall have standing as statutory law, but shall not override existing state authority to regulate the practice of medicine.

(b) 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 the compact, which may affect the powers, responsibilities or actions of the interstate commission.

(c) The interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, the compact or promulgated rules.

SECTION 17

ENFORCEMENT OF INTERSTATE COMPACT

(a) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(b) The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States district court for the District of Columbia, or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

(c) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

SECTION 18

DEFAULT PROCEDURES

(a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the compact, or the rules and bylaws of the interstate commission promulgated under the compact.

(b) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact, or the bylaws or promulgated rules, the interstate commission shall:

(1) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default; and

(2) provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the commissioners and all rights, privileges and benefits conferred by the compact shall terminate 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 the default.

(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(e) The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.

(f) The member state, which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(g) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(h) The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

SECTION 19 DISPUTE RESOLUTION

(a) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states or member boards.

(b) The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

SECTION 20 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

(a) Any state is eligible to become a member state of the compact.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than seven states. Thereafter, it shall become effective and binding on a state upon enactment of the compact into law by that state.

(c) The governors of non-member states, or their designees, shall be invited to participate in the activities of the interstate commission on a non-voting basis prior to adoption of the compact by all states.

(d) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

SECTION 21 WITHDRAWAL

(a) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state

may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(b) Withdrawal from the compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(c) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.

(d) The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notice provided under subsection (c).

(e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(g) The interstate commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

SECTION 22 DISSOLUTION

(a) The compact shall dissolve effective upon the date of the withdrawal or default of the member state, which reduces the membership in the compact to one member state.

(b) Upon the dissolution of the compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

SECTION 23 SEVERABILITY AND CONSTRUCTION

(a) The provisions of the compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of the compact shall be liberally construed to effectuate its purposes.

(c) Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

SECTION 24
BINDING EFFECT OF COMPACT
AND OTHER LAWS

(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(d) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

New Sec. 88. The provisions of sections 88 through 97, and amendments thereto, shall be known and may be cited as the independent practice of midwifery act.

New Sec. 89. As used in the independent practice of midwifery act:

(a) "Board" means the state board of healing arts.

(b) "Certified nurse-midwife" means an individual who:

(1) Is educated in the two disciplines of nursing and midwifery;

(2) is currently certified by a certifying board approved by the state board of nursing; and

(3) is currently licensed under the Kansas nurse practice act.

(c) "Independent practice of midwifery" means the provision of clinical services by a certified nurse-midwife without the requirement of a collaborative practice agreement with a person licensed to practice medicine and surgery when such clinical services are limited to those associated with a normal, uncomplicated pregnancy and delivery, including:

(1) The prescription of drugs and diagnostic tests;

(2) the performance of episiotomy or repair of a minor vaginal laceration;

(3) the initial care of the normal newborn; and

(4) family planning services, including treatment or referral of male partners for sexually-transmitted infections.

(d) The provisions of this section shall become effective on January 1, 2017.

New Sec. 90. (a) In order to obtain authorization to engage in the independent practice of midwifery, a certified nurse-midwife must meet the following requirements:

(1) Be licensed to practice professional nursing under the Kansas nurse practice act;

(2) have successfully completed a course of study in nurse-midwifery in a school of nurse-midwifery approved by the board;

(3) have successfully completed a national certification approved by the board;

(4) have successfully completed a refresher course as defined by rules and regulations of the board, if the individual has not been in active midwifery practice for five years immediately preceding the application;

(5) be authorized to perform the duties of a certified nurse-midwife by the state board of nursing;

(6) be licensed as an advanced practice registered nurse by the state board of nursing; and

(7) have paid all fees for licensure prescribed in section 92, and amendments thereto.

(b) Upon application to the board by any certified nurse-midwife and upon satisfaction of the standards and requirements established under this act, the board shall grant an authorization to the applicant to engage in the independent practice of midwifery.

(c) A person whose licensure has been revoked may make written application to the board requesting reinstatement of the license in a manner prescribed by the board, which application shall be accompanied by the fee prescribed in section 92, and amendments thereto.

(d) The provisions of this section shall become effective on January 1, 2017.

New Sec. 91. (a) Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board, unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the fee prescribed in section 92, and amendments thereto.

(b) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration, by mail, addressed to the licensee's last known mailing address. If the licensee fails to submit an application for renewal on a form provided by the board, or fails to pay the renewal fee by the date of expiration, the board shall give a second notice to the licensee that the license has expired and the license may be renewed only if the application for renewal, the renewal fee, and the late renewal fee are received by the board within the 30-day period following the date of expiration and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law and without further proceedings.

(c) The board may require any licensee, as a condition of renewal, to submit with the application of renewal evidence of satisfactory completion of a program of continuing education as required by rules and regulations of the board.

(d) The provisions of this section shall become effective on January 1, 2017.

New Sec. 92. (a) The board shall charge and collect, in advance, fees for certified nurse-midwives, as established by the board, not to exceed:

Application for license.....	\$100
License renewal	\$100
Late license renewal	\$100
License reinstatement fee.....	\$100
Revoked license fee	\$100
Certified copy of license.....	\$50
Verified copy of license	\$25

(b) The board shall remit all moneys received by or for the board from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such amount shall be credited to the state general fund, and the balance shall be credited to the healing arts fee fund. All expenditures from the healing arts fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or persons designated by the president.

(c) The provisions of this section shall become effective on January 1, 2017.

New Sec. 93. (a) It shall be unlawful for a person to engage in the independent practice of midwifery without a collaborative practice agreement with a person licensed to practice medicine and surgery, unless such certified nurse-midwife holds a license from the state board of nursing and the board.

(b) The provisions of this section shall become effective on January 1, 2017.

New Sec. 94. (a) The board, in consultation with the state board of nursing, shall adopt rules and regulations pertaining to certified nurse-midwives engaging in the independent practice of midwifery and governing the ordering of tests, diagnostic services and prescribing of drugs and referral or transfer to physicians in the event of complications or emergencies. Such rules and regulations shall not be adopted until the state board of nursing and the board have consulted and concurred on the content of each rule and regulation. Such rules and regulations shall be adopted no later than January 1, 2017.

(b) A certified nurse midwife engaging in the independent practice of midwifery shall be subject to the provisions of the independent practice of midwifery act with respect to the ordering of tests, diagnostic services and prescribing of drugs, and shall not be subject to the provisions of K.S.A. 65-1130, and amendments thereto.

(c) The standards of care for certified nurse-midwives in the ordering of tests, diagnostic services and the prescribing of drugs shall be those standards which protect patients and shall be standards comparable to persons licensed to practice medicine and surgery providing the same services.

(d) The board is hereby authorized to solely adopt those rules and regulations necessary to administer the administrative provisions of this act.

New Sec. 95. (a) The board may deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the board or applied for under this act, or may publicly censure a licensee or holder of a temporary permit or authorization, if the applicant or licensee is found after a hearing:

(1) To be guilty of fraud or deceit while engaging in the independent practice of midwifery or in procuring or attempting to procure a license to engage in the independent practice of midwifery;

(2) to have been found guilty of a felony or to have been found guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice and engage in the independent practice of midwifery shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2015 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) to have committed an act of professional incompetence as defined in subsection (c);

(4) to be unable to practice the healing arts with reasonable skill and safety by reason of impairment due to physical or mental illness or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery or release to any person or entity outside of a board proceeding. The provisions of this paragraph providing confidentiality of records shall expire on July 1, 2022, unless the legislature reviews and reenacts such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022;

(5) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;

(6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;

(7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act;

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to have been publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country, or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or 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 authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph; or

(9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2015 Supp. 21-5407, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty to a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2015 Supp. 21-5407, and amendments thereto;

(B) a copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto; or

(C) a copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

(b) No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state, except the crime of perjury as defined in K.S.A. 2015 Supp. 21-5903, and amendments thereto.

(c) As used in this section, “professional incompetency” means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to engage in the independent practice of midwifery.

(d) The board, upon request, shall receive from the Kansas bureau of investigation such criminal history record information relating to ar-

rests and criminal convictions, as necessary, for the purpose of determining initial and continuing qualifications of licensees and applicants for licensure by the board.

(e) The provisions of this section shall become effective on January 1, 2017.

New Sec. 96. (a) There is hereby established a nurse-midwives council to advise the board in carrying out the provisions of this act. The council shall consist of seven members, all residents of the state of Kansas appointed as follows: Two members shall be licensees of the board, appointed by the board, who are licensed to practice medicine and surgery and whose specialty and customary practice includes obstetrics; one member shall be the president of the board or a board member designated by the president; and four members shall be licensed certified nurse-midwives appointed by the board of nursing.

(b) If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any.

New Sec. 97. (a) Nothing in the independent practice of midwifery act should be construed to authorize a certified nurse-midwife engaging in the independent practice of midwifery under such act to perform, induce or prescribe drugs for an abortion.

(b) The provisions of this section shall become effective on January 1, 2017.

Sec. 98. On and after January 1, 2017, K.S.A. 2015 Supp. 65-1130 is hereby amended to read as follows: (a) No professional nurse shall announce or represent to the public that such person is an advanced practice registered nurse unless such professional nurse has complied with requirements established by the board and holds a valid license as an advanced practice registered nurse in accordance with the provisions of this section.

(b) The board shall establish standards and requirements for any professional nurse who desires to obtain licensure as an advanced practice registered nurse. Such standards and requirements shall include, but not be limited to, standards and requirements relating to the education of advanced practice registered nurses. The board may give such examinations and secure such assistance as it deems necessary to determine the qualifications of applicants.

(c) The board shall adopt rules and regulations applicable to advanced practice registered nurses which:

(1) Establish roles and identify titles and abbreviations of advanced practice registered nurses which are consistent with nursing practice specialties recognized by the nursing profession.

(2) Establish education and qualifications necessary for licensure for each role of advanced practice registered nurse established by the board

at a level adequate to assure the competent performance by advanced practice registered nurses of functions and procedures which advanced practice registered nurses are authorized to perform. Advanced practice registered nursing is based on knowledge and skills acquired in basic nursing education, licensure as a registered nurse and graduation from or completion of a master's or higher degree in one of the advanced practice registered nurse roles approved by the board of nursing.

(3) Define the role of advanced practice registered nurses and establish limitations and restrictions on such role. The board shall adopt a definition of the role under this ~~subsection (c)(3)~~ *paragraph* which is consistent with the education and qualifications required to obtain a license as an advanced practice registered nurse, which protects the public from persons performing functions and procedures as advanced practice registered nurses for which they lack adequate education and qualifications and which authorizes advanced practice registered nurses to perform acts generally recognized by the profession of nursing as capable of being performed, in a manner consistent with the public health and safety, by persons with postbasic education in nursing. In defining such role the board shall consider: (A) The education required for a licensure as an advanced practice registered nurse; (B) the type of nursing practice and preparation in specialized advanced practice skills involved in each role of advanced practice registered nurse established by the board; (C) the scope and limitations of advanced practice nursing prescribed by national advanced practice organizations; and (D) acts recognized by the nursing profession as appropriate to be performed by persons with postbasic education in nursing.

(d) An advanced practice registered nurse may prescribe drugs pursuant to a written protocol as authorized by a responsible physician. Each written protocol shall contain a precise and detailed medical plan of care for each classification of disease or injury for which the advanced practice registered nurse is authorized to prescribe and shall specify all drugs which may be prescribed by the advanced practice registered nurse. Any written prescription order shall include the name, address and telephone number of the responsible physician. The advanced practice registered nurse may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written protocol as authorized by a responsible physician. In order to prescribe controlled substances, the advanced practice registered nurse shall: (1) Register with the federal drug enforcement administration; and (2) notify the board of the name and address of the responsible physician or physicians. In no case shall the scope of authority of the advanced practice registered nurse exceed the normal and customary practice of the responsible physician. An advanced practice registered nurse certified in the role of registered nurse anesthetist while functioning as a registered nurse anesthetist under K.S.A. 65-1151 ~~to~~ *through* 65-

1164, ~~inclusive~~, and amendments thereto, shall be subject to the provisions of K.S.A. 65-1151 ~~to through~~ 65-1164, ~~inclusive~~, and amendments thereto, with respect to drugs and anesthetic agents and shall not be subject to the provisions of this subsection. For the purposes of this subsection, “responsible physician” means a person licensed to practice medicine and surgery in Kansas who has accepted responsibility for the protocol and the actions of the advanced practice registered nurse when prescribing drugs.

(e) As used in this section, “drug” means those articles and substances defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

(f) A person registered to practice as an advanced registered nurse practitioner in the state of Kansas immediately prior to the effective date of this act shall be deemed to be licensed to practice as an advanced practice registered nurse under this act and such person shall not be required to file an original application for licensure under this act. Any application for registration filed which has not been granted prior to the effective date of this act shall be processed as an application for licensure under this act.

(g) *An advanced practice registered nurse certified in the role of certified nurse-midwife and engaging in the independent practice of midwifery under the independent practice of midwifery act with respect to prescribing drugs shall be subject to the provisions of the independent practice of midwifery act and shall not be subject to the provisions of this section.*

Sec. 99. On and after January 1, 2017, K.S.A. 2015 Supp. 65-1626 is hereby amended to read as follows: 65-1626. For the purposes of this act:

(a) “Administer” means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

- (1) A practitioner or pursuant to the lawful direction of a practitioner;
- (2) the patient or research subject at the direction and in the presence of the practitioner; or
- (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments thereto.

(b) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser but shall not include a common carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier’s or warehouseman’s business.

(c) “Application service provider” means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) “Authorized distributor of record” means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer’s prescription drug. An ongoing relationship is deemed to exist between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in section 1504 of the internal revenue code, complies with any one of the following: (1) The wholesale distributor has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship; and (2) the wholesale distributor is listed on the manufacturer’s current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.

(e) “Board” means the state board of pharmacy created by K.S.A. 74-1603, and amendments thereto.

(f) “Brand exchange” means the dispensing of a different drug product of the same dosage form and strength and of the same generic name as the brand name drug product prescribed.

(g) “Brand name” means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

(h) “Chain pharmacy warehouse” means a permanent physical location for drugs or devices, or both, that acts as a central warehouse and performs intracompany sales or transfers of prescription drugs or devices to chain pharmacies that have the same ownership or control. Chain pharmacy warehouses must be registered as wholesale distributors.

(i) “Co-licensee” means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug and the national drug code on the drug product label shall be used to determine the identity of the drug manufacturer.

(j) “DEA” means the U.S. department of justice, drug enforcement administration.

(k) “Deliver” or “delivery” means the actual, constructive or attempted transfer from one person to another of any drug whether or not an agency relationship exists.

(l) “Direct supervision” means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

(m) “Dispense” means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner.

(n) “Dispenser” means a practitioner or pharmacist who dispenses prescription medication, or a physician assistant who has authority to dis-

pense prescription-only drugs in accordance with K.S.A. 65-28a08(b), and amendments thereto.

(o) “Distribute” means to deliver, other than by administering or dispensing, any drug.

(p) “Distributor” means a person who distributes a drug.

(q) “Drop shipment” means the sale, by a manufacturer, that manufacturer’s co-licensee, that manufacturer’s third party logistics provider, or that manufacturer’s exclusive distributor, of the manufacturer’s prescription drug, to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug, and the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug receives delivery of the prescription drug directly from the manufacturer, that manufacturer’s co-licensee, that manufacturer’s third party logistics provider, or that manufacturer’s exclusive distributor, of such prescription drug. Drop shipment shall be part of the “normal distribution channel.”

(r) “Drug” means: (1) Articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official national formulary, or any supplement of any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in ~~man~~ human or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of ~~man~~ human or other animals; and (4) articles intended for use as a component of any articles specified in paragraph (1), (2) or (3) ~~of this subsection~~; but does not include devices or their components, parts or accessories, except that the term “drug” shall not include amygdalin (laetrile) or any livestock remedy, if such livestock remedy had been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

(s) “Durable medical equipment” means technologically sophisticated medical devices that may be used in a residence, including the following: (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory disease management devices; (4) continuous positive airway pressure (CPAP) devices; (5) electronic and computerized wheelchairs and seating systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator (TENS) units; (8) low air loss cutaneous pressure management devices; (9) sequential compression devices; (10) feeding pumps; (11) home phototherapy devices; (12) infusion delivery devices; (13) distribution of medical gases to end users for human consumption; (14) hospital beds; (15) nebulizers; or (16) other similar equipment determined by the board in rules and regulations adopted by the board.

(t) “Electronic prescription” means an electronically prepared pre-

scription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(u) “Electronic prescription application” means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber’s computers and servers where access and records are controlled by the prescriber.

(v) “Electronic signature” means a confidential personalized digital key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person’s approval of the information contained in the transmission.

(w) “Electronic transmission” means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber’s electronic prescription application to a pharmacy’s computer, where the data file is imported into the pharmacy prescription application.

(x) “Electronically prepared prescription” means a prescription that is generated using an electronic prescription application.

(y) “Exclusive distributor” means any entity that: (1) Contracts with a manufacturer to provide or coordinate warehousing, wholesale distribution or other services on behalf of a manufacturer and who takes title to that manufacturer’s prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer’s prescription drug; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must be an authorized distributor of record.

(z) “Facsimile transmission” or “fax transmission” means the transmission of a digital image of a prescription from the prescriber or the prescriber’s agent to the pharmacy. “Facsimile transmission” includes, but is not limited to, transmission of a written prescription between the prescriber’s fax machine and the pharmacy’s fax machine; transmission of an electronically prepared prescription from the prescriber’s electronic prescription application to the pharmacy’s fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber’s fax machine to the pharmacy’s fax machine, computer or printer.

(aa) “Generic name” means the established chemical name or official name of a drug or drug product.

(bb) (1) “Institutional drug room” means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and which is maintained or operated for the purpose of providing the drug needs of:

- (A) Inmates of a jail or correctional institution or facility;
- (B) residents of a juvenile detention facility, as defined by the revised

Kansas code for care of children and the revised Kansas juvenile justice code;

(C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas;

(D) employees of a business or other employer; or

(E) persons receiving inpatient hospice services.

(2) “Institutional drug room” does not include:

(A) Any registered pharmacy;

(B) any office of a practitioner; or

(C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

(cc) “Intermediary” means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(dd) “Intracompany transaction” means any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership or control of a corporate entity, or any transaction or transfer between co-licensees of a co-licensed product.

(ee) “Medical care facility” shall have the meaning provided in K.S.A. 65-425, and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, except community mental health centers and facilities for people with intellectual disability.

(ff) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual’s own use or the preparation, compounding, packaging or labeling of a drug by:

(1) A practitioner or a practitioner’s authorized agent incident to such practitioner’s administering or dispensing of a drug in the course of the practitioner’s professional practice;

(2) a practitioner, by a practitioner’s authorized agent or under a practitioner’s supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or

(3) a pharmacist or the pharmacist’s authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

(gg) “Manufacturer” means a person licensed or approved by the FDA to engage in the manufacture of drugs and devices.

(hh) “Mid-level practitioner” means *a certified nurse-midwife engaging in the independent practice of midwifery under the independent practice of midwifery act*, an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs ~~prior to January 11, 2016, pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after January 11, 2016, pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.~~

(ii) “Normal distribution channel” means a chain of custody for a prescription-only drug that goes from a manufacturer of the prescription-only drug, from that manufacturer to that manufacturer’s co-licensed partner, from that manufacturer to that manufacturer’s third-party logistics provider or from that manufacturer to that manufacturer’s exclusive distributor, directly or by drop shipment, to:

(1) A pharmacy to a patient or to other designated persons authorized by law to dispense or administer such drug to a patient;

(2) a wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient;

(3) a wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse’s intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient; or

(4) a chain pharmacy warehouse to the chain pharmacy warehouse’s intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient.

(jj) “Person” means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

(kk) “Pharmacist” means any natural person licensed under this act to practice pharmacy.

(ll) “Pharmacist-in-charge” means the pharmacist who is responsible to the board for a registered establishment’s compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist-in-charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

(mm) “Pharmacist intern” means: (1) A student currently enrolled in

an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving an internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who has successfully passed equivalency examinations approved by the board.

(nn) “Pharmacy,” “drugstore” or “apothecary” means premises, laboratory, area or other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words “pharmacist,” “pharmaceutical chemist,” “pharmacy,” “apothecary,” “drugstore,” “druggist,” “drugs,” “drug sundries” or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign “Rx” may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.

(oo) “Pharmacy prescription application” means software that is used to process prescription information, is installed on a pharmacy’s computers or servers, and is controlled by the pharmacy.

(pp) “Pharmacy technician” means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

(qq) “Practitioner” means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

(rr) “Preceptor” means a licensed pharmacist who possesses at least two years’ experience as a pharmacist and who supervises students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist.

(ss) “Prescriber” means a practitioner or a mid-level practitioner.

(tt) “Prescription” or “prescription order” means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a prescriber in the authorized course of such prescriber’s professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such prescriber, regardless of whether the communication is oral, electronic, facsimile or in printed form.

(uu) “Prescription medication” means any drug, including label and

container according to context, which is dispensed pursuant to a prescription order.

(vv) “Prescription-only drug” means any drug whether intended for use by ~~man~~ human or animal, required by federal or state law, including 21 U.S.C. § 353, to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

(ww) “Probation” means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

(xx) “Professional incompetency” means:

(1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of pharmacy practice or other behavior which demonstrates a manifest incapacity or incompetence to practice pharmacy.

(yy) “Readily retrievable” means that records kept by automatic data processing applications or other electronic or mechanized record-keeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

(zz) “Retail dealer” means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug intended for human use by hypodermic injection.

(aaa) “Secretary” means the executive secretary of the board.

(bbb) “Third party logistics provider” means an entity that: (1) Provides or coordinates warehousing, distribution or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug’s sale or disposition; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must also be an authorized distributor of record.

(ccc) “Unprofessional conduct” means:

- (1) Fraud in securing a registration or permit;
- (2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;
- (3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;
- (4) intentionally falsifying or altering records or prescriptions;
- (5) unlawful possession of drugs and unlawful diversion of drugs to others;
- (6) willful betrayal of confidential information under K.S.A. 65-1654, and amendments thereto;
- (7) conduct likely to deceive, defraud or harm the public;
- (8) making a false or misleading statement regarding the licensee’s professional practice or the efficacy or value of a drug;
- (9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee’s professional practice; or
- (10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

(ddd) “Vaccination protocol” means a written protocol, agreed to by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, which establishes procedures and record-keeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

(eee) “Valid prescription order” means a prescription that is issued for a legitimate medical purpose by an individual prescriber licensed by law to administer and prescribe drugs and acting in the usual course of such prescriber’s professional practice. A prescription issued solely on the basis of an internet-based questionnaire or consultation without an appropriate prescriber-patient relationship is not a valid prescription order.

(fff) “Veterinary medical teaching hospital pharmacy” means any location where prescription-only drugs are stored as part of an accredited college of veterinary medicine and from which prescription-only drugs are distributed for use in treatment of or administration to a nonhuman.

(ggg) “Wholesale distributor” means any person engaged in wholesale distribution of prescription drugs or devices in or into the state, including, but not limited to, manufacturers, repackagers, own-label distributors, private-label distributors, jobbers, brokers, warehouses, including manufacturers’ and distributors’ warehouses, co-licensees, exclusive distributors, third party logistics providers, chain pharmacy warehouses that conduct wholesale distributions, and wholesale drug warehouses, independent wholesale drug traders and retail pharmacies that conduct wholesale distributions. Wholesale distributor shall not include persons engaged in the sale of durable medical equipment to consumers or patients.

(hhh) “Wholesale distribution” means the distribution of prescription

drugs or devices by wholesale distributors to persons other than consumers or patients, and includes the transfer of prescription drugs by a pharmacy to another pharmacy if the total number of units of transferred drugs during a twelve-month period does not exceed 5% of the total number of all units dispensed by the pharmacy during the immediately preceding twelve-month period. Wholesale distribution does not include:

(1) The sale, purchase or trade of a prescription drug or device, an offer to sell, purchase or trade a prescription drug or device or the dispensing of a prescription drug or device pursuant to a prescription;

(2) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device for emergency medical reasons;

(3) intracompany transactions, as defined in this section, unless in violation of own use provisions;

(4) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device among hospitals, chain pharmacy warehouses, pharmacies or other health care entities that are under common control;

(5) the sale, purchase or trade of a prescription drug or device or the offer to sell, purchase or trade a prescription drug or device by a charitable organization described in 503(c)(3) of the internal revenue code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(6) the purchase or other acquisition by a hospital or other similar health care entity that is a member of a group purchasing organization of a prescription drug or device for its own use from the group purchasing organization or from other hospitals or similar health care entities that are members of these organizations;

(7) the transfer of prescription drugs or devices between pharmacies pursuant to a centralized prescription processing agreement;

(8) the sale, purchase or trade of blood and blood components intended for transfusion;

(9) the return of recalled, expired, damaged or otherwise non-salable prescription drugs, when conducted by a hospital, health care entity, pharmacy, chain pharmacy warehouse or charitable institution in accordance with the board's rules and regulations;

(10) the sale, transfer, merger or consolidation of all or part of the business of a retail pharmacy or pharmacies from or with another retail pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets, in accordance with the board's rules and regulations;

(11) the distribution of drug samples by manufacturers' and authorized distributors' representatives;

(12) the sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use; or

(13) the sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a third party returns processor in accordance with the board's rules and regulations.

Sec. 100. On and after January 1, 2017, K.S.A. 2015 Supp. 65-4101 is hereby amended to read as follows: 65-4101. As used in this act: (a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(1) A practitioner or pursuant to the lawful direction of a practitioner; or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common carrier, public warehouseman or employee of the carrier or warehouseman.

(c) "Application service provider" means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) "Board" means the state board of pharmacy.

(e) "Bureau" means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

(f) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(g) (1) "Controlled substance analog" means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

(B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

(C) with respect to a particular individual, which such individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a con-

trolled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) “Controlled substance analog” does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application;

or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with respect to the substance is permitted by the exemption.

(h) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(i) “Cultivate” means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

(j) “DEA” means the U.S. department of justice, drug enforcement administration.

(k) “Deliver” or “delivery” means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(l) “Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery, or pursuant to the prescription of a mid-level practitioner.

(m) “Dispenser” means a practitioner or pharmacist who dispenses, or a physician assistant who has authority to dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b), and amendments thereto.

(n) “Distribute” means to deliver other than by administering or dispensing a controlled substance.

(o) “Distributor” means a person who distributes.

(p) “Drug” means: (1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in ~~man~~ human or animals; (3) substances (other than food) intended to affect the structure or any function of the body of ~~man~~ human or animals; and (4) substances intended for use as a component of any article specified in paragraph (1), (2) or (3) ~~of this subsection~~. It does not include devices or their components, parts or accessories.

(q) “Immediate precursor” means a substance which the board has

found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(r) “Electronic prescription” means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(s) “Electronic prescription application” means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber’s computers and servers where access and records are controlled by the prescriber.

(t) “Electronic signature” means a confidential personalized digital key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person’s approval of the information contained in the transmission.

(u) “Electronic transmission” means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber’s electronic prescription application to a pharmacy’s computer, where the data file is imported into the pharmacy prescription application.

(v) “Electronically prepared prescription” means a prescription that is generated using an electronic prescription application.

(w) “Facsimile transmission” or “fax transmission” means the transmission of a digital image of a prescription from the prescriber or the prescriber’s agent to the pharmacy. “Facsimile transmission” includes, but is not limited to, transmission of a written prescription between the prescriber’s fax machine and the pharmacy’s fax machine; transmission of an electronically prepared prescription from the prescriber’s electronic prescription application to the pharmacy’s fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber’s fax machine to the pharmacy’s fax machine, computer or printer.

(x) “Intermediary” means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(y) “Isomer” means all enantiomers and diastereomers.

(z) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual’s own lawful use

or the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

(aa) "Marijuana" means all parts of all varieties of the plant *Cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

(bb) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto.

(cc) "Mid-level practitioner" means *a certified nurse-midwife engaging in the independent practice of midwifery under the independent practice of midwifery act*, an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs ~~prior to January 11, 2016, pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after January 11, 2016, pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.~~

(dd) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of

coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(ee) “Opiate” means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(ff) “Opium poppy” means the plant of the species *Papaver somniferum* L. except its seeds.

(gg) “Person” means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(hh) “Pharmacist” means any natural person licensed under K.S.A. 65-1625 et seq., and amendments thereto, to practice pharmacy.

(ii) “Pharmacist intern” means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving such person’s internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who had successfully passed equivalency examinations approved by the board.

(jj) “Pharmacy prescription application” means software that is used to process prescription information, is installed on a pharmacy’s computers and servers, and is controlled by the pharmacy.

(kk) “Poppy straw” means all parts, except the seeds, of the opium poppy, after mowing.

(ll) “Practitioner” means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

(mm) “Prescriber” means a practitioner or a mid-level practitioner.

(nn) “Production” includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(oo) “Readily retrievable” means that records kept by automatic data processing applications or other electronic or mechanized recordkeeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

(pp) “Ultimate user” means a person who lawfully possesses a con-

trolled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household.

Sec. 101. K.S.A. 59-29b54, 59-29b61, 65-4016, 65-5806, 65-5808, 65-6314, 65-6407, 65-6408, 65-6411, 74-5311, 74-5318, 74-5319, 74-5320, 74-5321, 74-5325, 74-5326, 74-5327, 74-5328, 74-5332, 74-5333, 74-5334, 74-5336, 74-5338, 74-5361, 74-5362, 74-5363, 74-5365, 74-5370, 75-6115 and 75-6120 and K.S.A. 2015 Supp. 59-29b46, 59-3077, 65-1431, 65-2809, 65-2872, 65-2901, 65-2913, 65-4024a, 65-5807, 65-5809, 65-5815, 65-6309, 65-6311, 65-6313, 65-6405, 65-6406, 65-6412, 65-6607, 65-6608, 65-6609, 65-6610, 65-6611, 65-6612, 65-6613, 65-6614, 65-6615, 65-6616, 65-6617, 65-6618, 65-6619, 65-6620, 74-5310, 74-5315, 74-5316, 74-5324, 74-5337, 74-5367, 74-5369, 74-5375, 74-5376, 74-7507, 74-7508 and 75-6102 are hereby repealed.

Sec. 102. On and after January 1, 2017, K.S.A. 2015 Supp. 65-1130, 65-1626 and 65-4101 are hereby repealed.

Sec. 103. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 13, 2016.

CHAPTER 93

House Substitute for SENATE BILL No. 128

AN ACT concerning courts; relating to attorney licensure; selection and appointment of judges and justices; supreme court nominating commission and district judicial nominating commissions; applicability of open meetings act and open records act; amending K.S.A. 20-122, 20-123, 20-130, 20-132, 20-2904 and 20-2907 and K.S.A. 2015 Supp. 7-127, 12-4516, 20-2909, 20-3020, 21-6614, 22-2410 and 22-3609 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:

Section 1. K.S.A. 2015 Supp. 7-127 is hereby amended to read as follows: 7-127. (a) *Each applicant for admission to practice law in this state, in submitting the application, shall provide to the clerk of the supreme court the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto. Whenever any person whose application for admission to practice law in this state is pending shall move from the residential address listed on such person's application, or when the name of any such person is changed by marriage or otherwise, such person, within 10 days thereafter, shall notify the clerk of the supreme court in writing of such person's old and new residential addresses or of such person's former and new names.*

(b) *Any person whose application to practice law in Kansas is pending*

as of the effective date of this act, and for whom the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, is not correct on such application as of the effective date of this act, shall provide the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, in writing to the clerk of the supreme court within 60 days after the effective date of this act. The clerk of the supreme court, within 30 days after the effective date of this act, shall send notice to all persons whose applications to practice law in Kansas are pending as of the effective date of this act, that such persons are required by law to provide the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, in writing to the clerk of the supreme court within 60 days after the effective date of this act.

(c) The supreme court may require an applicant for admission to practice law in this state to be fingerprinted and submit to a national criminal history record check. The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal arrests and convictions in this state or other jurisdictions. The supreme court and the state board of law examiners are authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state board of law examiners and the supreme court may use the information obtained from fingerprinting and the applicant's criminal history only for purposes of verifying the identification of any applicant and in the official determination of character and fitness of the applicant for admission to practice law in this state.

~~(b)~~(d) Local and state law enforcement officers and agencies shall assist the supreme court in taking and processing of fingerprints of applicants seeking admission to practice law in this state and shall release all records of an applicant's arrests and convictions to the supreme court and the state board of law examiners.

New Sec. 2. (a) The clerk of the supreme court shall maintain in the clerk's office a roster of attorneys licensed to practice law in Kansas. Such roster shall include the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, the congressional district of residence and the judicial district of residence for each person licensed to practice law in Kansas. Whenever any person licensed to practice law in Kansas moves from the residential address listed for such person on such roster, or when the name of any such person is changed by marriage or otherwise, such person, within 10 days thereafter, shall notify the clerk of the supreme court in writing of such person's old and new residential addresses or of such person's former and new names.

(b) Each person on the roster of attorneys licensed to practice law in Kansas on the effective date of this act, and for whom the information

enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, is not correct on such roster on the effective date of this act, shall provide the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, in writing to the clerk of the supreme court within 60 days after the effective date of this act. The clerk of the supreme court, within 30 days after the effective date of this act, shall send notice to all persons listed on the roster of attorneys licensed to practice law in Kansas on the effective date of this act, that such persons are required by law to provide the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, in writing to the clerk of the supreme court within 60 days of the effective date of this act.

(c) Only attorneys licensed to practice law in Kansas and residing in Kansas on or before the 15th day of February preceding the selection of the chairperson of the supreme court nominating commission as provided in K.S.A. 20-119, and amendments thereto, and only attorneys so licensed and residing in the congressional district on or before the 15th day of February preceding the selection of the members of the supreme court nominating commission to be chosen from among the members of the bar of such congressional district as provided in K.S.A. 20-120, and amendments thereto, and, in either event, only attorneys for whom the roster of attorneys licensed to practice law in Kansas contains the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, shall be entitled to make nominations or receive and cast ballots in such selections.

(d) (1) On or before the 20th day of February preceding the selection of a chairperson of the supreme court nominating commission, the clerk of the supreme court shall transmit a certified copy of the roster of attorneys licensed to practice law in Kansas to the secretary of state. Such certified copy shall include the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, for each person listed on the roster and having a residential address within Kansas as of the preceding 15th day of February.

(2) On or before the 20th day of February preceding the selection of a member of the supreme court nominating commission to be chosen from among the members of the bar of a congressional district, the clerk of the supreme court shall transmit a certified copy of the roster of attorneys licensed to practice law in Kansas to the secretary of state. Such certified copy shall include the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, for each person listed on the roster and having a residential address within the congressional district as of the preceding 15th day of February.

(3) The certified copy of the roster shall be transmitted in a format prescribed by the secretary of state. Upon receipt of such certified roster, the secretary of state shall append thereto the unique voter identification

number for each person listed on the roster having such a number, as contained in the centralized voter registration database described in K.S.A. 2015 Supp. 25-2304, and amendments thereto.

(e) Notwithstanding any other provision of law, the names, residential addresses, dates of birth, unique voter identification numbers and dates of licensure to practice law in Kansas of all persons listed on the certified roster of attorneys licensed to practice law in Kansas created pursuant to subsection (d), including the information as appended to the roster pursuant to subsection (d), shall be disclosed upon proper request submitted to the clerk of the supreme court or to the secretary of state pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto.

Sec. 3. 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 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. *If the case was appealed from municipal court, the clerk of the district court shall send a certified copy of the order of expungement to the municipal court. The municipal court shall order the case expunged once the certified copy of the order of expungement is received.* 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 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 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, 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 carry a concealed weapon pursuant to the personal and family protection act;

(14) the Kansas sentencing commission;

(15) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

(16) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto.

Sec. 4. K.S.A. 20-122 is hereby amended to read as follows: 20-122. (a) The clerk of the supreme court ~~may~~ shall use the *certified* roster of attorneys ~~in the clerk's office~~ licensed to practice law in Kansas, *as provided to the secretary of state pursuant to section 2, and amendments thereto*, for ascertaining the names and places of residence of those entitled to receive ballots and for ascertaining the qualifications of those nominated for membership on the commission. The clerk shall supply with each ballot distributed a certificate to be signed and returned by the member of the bar voting such ballot, evidencing the qualifications of such member of the bar to vote, *including the name and residential address of such member of the bar*, and certifying that the ballot was voted by the certifying voter.

(b) ~~To the end~~ *In order to ensure* that the vote cast may be secret, *the clerk shall provide* a separate envelope ~~shall be provided~~ for the ballot, in which the voted ballot only shall be placed, and the envelope containing the voted ballot shall be ~~returned in an~~ *placed in another* envelope, also to be supplied by the clerk, together with the signed certificate. ~~No~~ A ballot not accompanied by the signed certificate of the voter shall *not* be counted. When the voted ballots are received by the clerk they shall be separated from the certificates by the canvassers, and after the ballots are counted and the results certified ~~both~~, the ballots ~~and the certificates~~ shall be preserved by the clerk for a period of six months and *the certificates shall be preserved by the clerk for a period of five years*. No one shall be permitted to inspect ~~them~~ *the ballots received pursuant to this section* except on order of the supreme court. *Unless otherwise ordered by the supreme court*, at the end of such ~~six months~~ *six-month* period the clerk; ~~unless otherwise ordered by the supreme court~~, shall destroy ~~them~~ *the ballots received pursuant to this section*, and at the end of such *five-year* period, *the clerk shall destroy the certificates received pursuant to this section*.

(c) *Within 14 days after the results of a selection are certified pursuant to this section, the clerk of the supreme court shall: (1) Create a list designating the position and year for which the selection was held and containing the names and residential addresses of all persons who returned a ballot with a signed certificate as described in subsection (b); and (2) transmit a certified copy of the list to the secretary of state. The list described in this subsection shall be transmitted in a format prescribed by the secretary of state. Upon receipt of the list described in this subsection, the secretary of state shall append the information contained therein to the roster for such selection as described in section 2, and amendments thereto.*

(d) *Notwithstanding any other provision of law, the certificates received for a selection pursuant to this section shall be disclosed upon proper request submitted to the clerk of the supreme court pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto.*

(e) *Notwithstanding any other provision of law, the lists described in subsection (c) shall be disclosed upon proper request submitted to the clerk of the supreme court or to the secretary of state pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto.*

(f) *The provisions of this section shall apply to all selections held under K.S.A. 20-119 and 20-120, and amendments thereto, which have not been canvassed pursuant to K.S.A. 20-130, and amendments thereto, regardless of whether such selections are scheduled, upcoming or pending as on the effective date of this act.*

Sec. 5. K.S.A. 20-123 is hereby amended to read as follows: 20-123. (a) When the chairperson and other members of the commission chosen by the members of the bar have been elected, and after the names of the nonlawyer members appointed by the governor have been certified to the clerk of the supreme court as provided in this act, the clerk shall make a record thereof in the clerk's office and shall notify the members of the commission of their election and appointment. The commission shall meet from time to time as may be necessary to discharge the responsibilities of the commission. Such meetings shall be held at such place as the clerk of the supreme court may arrange. Such meeting shall be held upon the call of the chairperson, or in the event of the chairperson's failure to call a meeting when a meeting is necessary, upon the call of any four members of the commission. The commission shall act only at a meeting, and may act only by the concurrence of a majority of its members. The commission shall have power to adopt such reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties as are consistent with this act and the constitution of the state of Kansas.

(b) (1) *The supreme court nominating commission shall be and is hereby deemed to be a public body and shall be subject to the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto.*

(2) *Except as provided further, the commission shall not recess for a closed or executive meeting for any purpose. The commission, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting only for the purpose of discussing sensitive financial information contained within the personal financial records or official background check of a candidate for judicial nomination.*

(3) *Nothing in this subsection shall be construed to supersede the commission's discretion to close a record or portion of a record submitted to the commission pursuant to any applicable exception to public disclosure under the open records act.*

Sec. 6. K.S.A. 20-130 is hereby amended to read as follows: 20-130. The canvassers at any election held pursuant to this act shall consist of the clerk of the supreme court and two (2) or more persons who are members of the bar residing in Kansas, either practicing lawyers, justices

~~or judges, designated to act as such by the chief justice, the secretary of state or the secretary of state's designee and the attorney general or the attorney general's designee.~~ The canvassers shall open and canvass the ballots and shall tabulate and sign the results as a record in the office of the clerk.

Sec. 7. K.S.A. 20-132 is hereby amended to read as follows: 20-132. When a vacancy occurs in the supreme court, the clerk of such court shall promptly notify the chairman of the commission of such vacancy, *and the commission shall make nominations of three persons to fill such vacancy and certify the names of the nominees to the governor.* When it is known that a vacancy will occur at a definite future date, but the vacancy has not yet occurred, the clerk shall notify the chairman of the commission thereof, and the commission may, within ~~sixty (60)~~ days prior to the occurrence of such vacancy, make its nominations and submit to the governor the names of three ~~(3)~~ persons nominated for such forthcoming vacancy. To the end that the administration of justice may be facilitated and that no vacancy on the supreme court may be permitted to exist unduly, the commission shall make its nominations for each vacancy and certify them to the governor as promptly as possible, and in any event not later than ~~sixty (60)~~ days from the time such vacancy occurs.

New Sec. 8. (a) Only attorneys licensed to practice law in Kansas and residing in the judicial district on or before the 15th day of November preceding the election of a lawyer member of the district judicial nominating commission, and for whom the roster of attorneys licensed to practice law in Kansas contains the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, shall be entitled to make nominations or receive and cast ballots in such elections.

(b) On or before the 20th day of November preceding the election of a lawyer member of the district judicial nominating commission, the clerk of the supreme court shall transmit a certified copy of the roster of attorneys licensed to practice law in Kansas to the secretary of state. Such certified copy shall include the information enumerated in K.S.A. 2015 Supp. 25-2309(b)(1) through (5), and amendments thereto, for each person listed on the roster and having a residential address within the judicial district as of the preceding 15th day of November. The certified copy of the roster shall be transmitted in a format prescribed by the secretary of state. Upon receipt of such certified roster, the secretary of state shall append thereto the unique voter identification number for each person listed on the roster having such a number, as contained in the centralized voter registration database described in K.S.A. 2015 Supp. 25-2304, and amendments thereto.

(c) Notwithstanding any other provision of law, the names, residential addresses, dates of birth, unique voter identification numbers and dates of licensure to practice law in Kansas of all persons listed on the certified

roster of attorneys licensed to practice law in Kansas created pursuant to subsection (b), including the information as appended to the roster pursuant to subsection (b), shall be disclosed upon proper request submitted to the clerk of the supreme court or to the secretary of state pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto.

Sec. 9. K.S.A. 20-2904 is hereby amended to read as follows: 20-2904. (a) ~~Lawyer members of the district judicial nominating commission shall be elected by the lawyers who are qualified electors of the judicial district and who are registered with the clerk of the supreme court pursuant to rule 208 of such court. Each lawyer member of a district judicial nominating commission shall be a qualified elector of such judicial district pursuant to this section. The clerk of the supreme court shall use the certified roster of attorneys licensed to practice law in Kansas, as provided to the secretary of state pursuant to section 8, and amendments thereto, for ascertaining the names and places of residence of those entitled to receive ballots and for ascertaining the qualifications of those nominated for membership on the district judicial nominating commission.~~

(b) The number of lawyer members to be elected to the district judicial nominating commission of a judicial district shall be as follows:

(1) In a judicial district consisting of a single county, the number of members elected shall be equal to the number of nonlawyer members appointed pursuant to ~~subsection (a)(1) of~~ K.S.A. 20-2905(a)(1), and amendments thereto.

(2) In a judicial district consisting of two counties, four members shall be elected.

(3) In a judicial district consisting of three or more counties, the number of members elected shall equal the number of counties in such judicial district.

~~(b)~~(c) (1) Between December 1 and December 15 of the year in which nonpartisan selection of judges of the district court is approved by the electors of the judicial district as provided in K.S.A. 20-2901, and amendments thereto, the clerk of the supreme court shall send to each lawyer by ordinary first class mail a form for nominating one lawyer for election to the commission. Any such nomination shall be received in the office of the clerk of the supreme court on or before January 1 of the following year, together with the written consent of the nominee. After receipt of all nominations which are timely submitted, the clerk shall prepare a ballot containing the names of all lawyers so nominated and shall mail one such ballot and instructions for voting such ballot to each registered lawyer in the judicial district. Ballots shall be prepared in such manner that each lawyer receiving the same shall be instructed to vote for not more than the number of positions to be filled. Each such ballot shall be accompanied by a certificate to be signed and returned by the lawyer voting such ballot, evidencing the qualifications of such lawyer to

vote, including the name and residential address of such lawyer, and certifying that the ballot was voted by such person. In any judicial district in which the number of nominees does not exceed the number of positions to be filled, the clerk shall declare those nominees to be elected without preparation of a ballot.

(2) In order to insure that the election of lawyer members is by secret ballot, the clerk shall provide a separate envelope for the ballot, in which the voted ballot only shall be placed, and the envelope containing the voted ballot shall be placed in another envelope, also to be supplied by the clerk, together with the signed certificate, and received in the office of the clerk of the supreme court on or before February 15 of such year. *A ballot not accompanied by the signed certificate of the voter shall not be counted.* The ballots returned as provided in this section shall be canvassed within ~~five~~ 10 days thereafter. The canvassers shall consist of the clerk of the supreme court and two or more persons who are registered members of the bar residing in Kansas, either practicing lawyers, justices or judges, designated to act as such by the chief justice, the secretary of state or the secretary of state's designee and the attorney general or the attorney general's designee. The canvassers shall open and canvass the ballots and shall tabulate and sign the results as a record in the office of the clerk. *After the ballots are counted and the results certified, the ballots shall be preserved by the clerk for a period of six months, and the certificates shall be preserved by the clerk for a period of five years. No one shall be permitted to inspect the ballots received pursuant to this section except upon order by the supreme court. Unless otherwise ordered by the supreme court, at the end of such six-month period, the clerk shall destroy the ballots received pursuant to this section, and at the end of such five-year period, the clerk shall destroy the certificates received pursuant to this section.*

(c) Within 14 days after the results of an election are certified pursuant to this section, the clerk of the supreme court shall: (1) Create a list designating the positions and year for which the selection was held and containing the names and residential addresses of all persons who returned a ballot with a signed certificate as described in subsection (b); and (2) transmit a certified copy of the list to the secretary of state. The list described in this subsection shall be transmitted in a format prescribed by the secretary of state. Upon receipt of the list described in this subsection, the secretary of state shall append the information contained therein to the roster for such election as described in section 8, and amendments thereto.

(d) Notwithstanding any other provision of law, the certificates received for an election pursuant to this section shall be disclosed upon proper request submitted to the clerk of the supreme court pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto.

(e) Notwithstanding any other provision of law, the lists described in

subsection (c) shall be disclosed upon proper request submitted to the clerk of the supreme court or to the secretary of state pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto.

~~(e)~~(f) After the ballots are counted and tabulated in descending order from the nominee receiving the highest number of votes the canvassers shall declare to be elected those nominees who are equal in number to the number of lawyers to be elected and who have the greatest number of votes. In the event of a tie creating more nominees to be elected than there are positions to be filled, the canvassers shall determine the person or persons to be elected by lot. In the event that less than the required number of lawyers is elected, the positions for which lawyers have not been elected shall be declared vacant and the vacancies filled in the manner prescribed by ~~subsection (e) of~~ K.S.A. 20-2906(e), and amendments thereto.

~~(d)~~(g) The procedure provided in this section for election of lawyers to serve as members of the first district judicial nominating commission established in a judicial district shall apply to the election of lawyers to succeed lawyer members of the commission whose terms of office expire, except that the form for submitting a nomination shall be sent between December 1 and December 15 of the year preceding the year in which such terms of office expire, and the dates prescribed for submission of nominations and the mailing, returning and canvassing of ballots shall apply in the year in which such terms of office expire.

Sec. 10. K.S.A. 20-2907 is hereby amended to read as follows: 20-2907. (a) Prior to taking office, each member of a district judicial nominating commission shall take and subscribe an oath of office as provided by law for public officers, and shall file the same with the clerk of the supreme court. After the members of the first commission established in a judicial district have commenced their terms of office, the chairman shall call a meeting of the commission to be held within the judicial district at a time and place designated by the chairman. At such meeting, the commission shall determine a regular meeting place or places, and the commission shall have the power to adopt such reasonable and proper rules and regulations as are necessary for the conduct of its proceedings and the discharge of its duties, consistent with the provisions of this act and the constitution and laws of this state.

(b) The commission shall meet only upon call of the chairman, and the commission shall not take any final action except at such meeting. A majority of the members of the commission shall constitute a quorum to do business, but no final action shall be taken except upon a vote of the majority of the members of the commission.

(c) Members of the commission shall receive no compensation, but shall be reimbursed for their actual and necessary expenses incurred in performing their official duties, as provided in ~~subsections (b), (c) and (d)~~

~~of~~ K.S.A. 75-3223 (b), (c) and (d), and amendments thereto. Such expenses shall be paid from the judicial nominating commission fund as provided in K.S.A. 20-138, ~~as amended~~ and amendments thereto.

(d) The board of county commissioners of each county in a judicial district shall cooperate with the district judicial nominating commission of such judicial district, and shall make available to the commission whenever possible the facilities and services of such county, in order to expedite the business of the commission.

(e) (1) *A district judicial nominating commission shall be and is hereby deemed to be a public body and shall be subject to the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto.*

(2) *Except as provided further, the commission shall not recess for a closed or executive meeting for any purpose. The commission, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting only for the purpose of discussing sensitive financial information contained within the personal financial records or official background check of a candidate for judicial nomination.*

(3) *Nothing in this subsection shall be construed to supersede the commission's discretion to close a record or portion of a record submitted to the commission pursuant to any applicable exception to public disclosure under the open records act.*

Sec. 11. K.S.A. 2015 Supp. 20-2909 is hereby amended to read as follows: 20-2909. (a) (1) Whenever a vacancy occurs in the office of judge of the district court in any judicial district, or whenever a vacancy will occur in such office on a specified future date, the chief justice of the supreme court shall give notice of such vacancy to the chairperson of the district judicial nominating commission of such judicial district not later than 120 days following the date the vacancy occurs or will occur.

(2) The chairperson, in consultation with members of the commission, within five days after receipt of such notice, shall set a schedule for accepting nominations and conducting interviews for the purpose of nominating persons for appointment to such office. It shall be the duty of the commission to nominate not less than ~~two~~ *three* nor more than ~~three~~ *five* persons for each office which is vacant, and shall submit the names of the persons so nominated to the governor. Any person nominated shall have the qualifications prescribed by ~~subsection (b) of~~ K.S.A. 20-2903(b), and amendments thereto, and in order to obtain the best qualified persons as nominees, the commission shall not limit its consideration of potential nominees to those persons whose names have been submitted to the commission or who have expressed a willingness to serve. The commission may authorize one or more members of the commission to tender a nomination to any qualified person in order to ascertain the person's willingness to serve if nominated, but any such tender of nomination shall be

subject to final action of the commission under the conditions prescribed by ~~subsection (b)~~ of K.S.A. 20-2907(b), and amendments thereto.

(3) In order that a vacancy in the office of judge of the district court does not exist for an inordinate length of time, the commission shall conduct the business of selecting nominees for appointment to such office and certifying the same to the governor as promptly and expeditiously as possible, having due regard for the importance of selecting the best possible nominees. In no event shall the commission submit its nominations to the governor more than 45 days after the date the chief justice has notified the nominating commission that a vacancy is to be filled, unless the chief justice permits an extension of such time period.

(b) If there are not at least ~~two~~ *three* attorneys deemed qualified by the district judicial nominating commission who reside in the judicial district and who are willing to accept the nomination to fill a vacancy in a district judge position, the nominating commission need not limit its consideration of nominees to attorneys residing in the judicial district. In cases where there is one such attorney, such attorney shall be one of the nominees submitted to the governor. If an appointee is not a resident of the judicial district at the time of appointment to a district judge position, the appointee shall establish residency in the judicial district before taking office and shall maintain such residency while holding such office.

Sec. 12. K.S.A. 2015 Supp. 20-3020 is hereby amended to read as follows: 20-3020. (a) (1) On and after July 1, 2013, any vacancy occurring in the office of any judge of the court of appeals and any position to be open on the court of appeals as a result of enlargement of such court, or the retirement or failure of an incumbent to file such judge's declaration of candidacy to be retained in office as hereinafter required, or failure of a judge to be elected to be retained in office, shall be filled by appointment by the governor, with the consent of the senate, of a person possessing the qualifications of office.

(2) Whenever a vacancy occurs, will occur or position opens on the court of appeals, the clerk of the supreme court shall promptly give notice to the governor.

(3) *If the governor is making an appointment to the court of appeals, the governor shall make each applicant's name and city of residence available to the public whenever the governor stops accepting applications for such appointment, but not less than 10 days prior to making such appointment.*

(4) In event of the failure of the governor to make the appointment within 60 days from the date such vacancy occurred or position became open, the chief justice of the supreme court, with the consent of the senate, shall make the appointment of a person possessing the qualifications of office.

(5) *If the chief justice of the supreme court is making an appointment*

to the court of appeals, the chief justice shall make each applicant's name and city of residence available to the public whenever the chief justice stops accepting applications for such appointment, but not less than 10 days prior to making such appointment.

(4)-(6) Whenever a vacancy in the office of judge of the court of appeals exists at the time the appointment to fill such vacancy is made pursuant to this section, the appointment shall be effective at the time it is made, but where an appointment is made pursuant to this section to fill a vacancy which will occur at a future date, such appointment shall not take effect until such date.

(b) No person appointed pursuant to subsection (a) shall assume the office of judge of the court of appeals until the senate, by an affirmative vote of the majority of all members of the senate then elected or appointed and qualified, consents to such appointment. The senate shall vote to consent to any such appointment not later than 60 days after such appointment is received by the senate. If the senate is not in session and will not be in session within the 60-day time limitation, the senate shall vote to consent to any such appointment not later than 20 days after the senate begins its next session. In the event a majority of the senate does not vote to consent to the appointment, the governor, within 60 days after the senate vote on the previous appointee, shall appoint another person possessing the qualifications of office and such subsequent appointment shall be considered by the senate in the same procedure as provided in this section. The same appointment and consent procedure shall be followed until a valid appointment has been made. No person who has been previously appointed but did not receive the consent of the senate shall be appointed again for the same vacancy. If the senate fails to vote on an appointment within the time limitation imposed by this subsection, the senate shall be deemed to have given consent to such appointment.

(c) Persons who are appointed as judges of the court of appeals pursuant to K.S.A. 20-3005, prior to its repeal, and this section, shall commence the duties of office upon appointment and consent, and each judge shall have all the rights, privileges, powers and duties prescribed by law for the office of judge of the court of appeals.

(d) Judges of the court of appeals shall possess the qualifications prescribed by law for justices of the supreme court.

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 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. *If the case was appealed from municipal court, the clerk of the district court shall send a certified copy of the order of expungement to the municipal court. The municipal court shall order the case expunged once the certified copy of the order of expungement is received.* 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. 14. K.S.A. 2015 Supp. 22-2410 is hereby amended to read as follows: 22-2410. (a) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

(b) When a petition for expungement is filed, the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. When a petition for expungement is filed, the official court file shall be separated from the other records of the court, and shall be disclosed only to a judge of the court and members of the staff of the court designated by a judge of the district court, the prosecuting attorney, the arresting law enforcement agency, or any other person when authorized by a court order, subject to any conditions imposed by the order. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$176. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2015, through June 30, 2017, the supreme court may impose an additional charge, not to exceed \$19 per docket fee, to fund the costs of non-judicial personnel. The petition shall state:

(1) The petitioner's full name;

(2) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;

(3) the petitioner's sex, race and date of birth;

- (4) the crime for which the petitioner was arrested;
- (5) the date of the petitioner's arrest; and
- (6) the identity of the arresting law enforcement agency.

No surcharge or fee shall be imposed on any person filing a petition pursuant to this section, who was arrested as a result of being a victim of identity theft under K.S.A. 21-4018, prior to its repeal, or K.S.A. 2015 Supp. 21-6107(a), and amendments thereto, or who has had criminal charges dismissed because a court has found that there was no probable cause for the arrest, the petitioner was found not guilty in court proceedings or the charges have been dismissed. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(c) At the hearing on a petition for expungement, the court shall order the arrest record and subsequent court proceedings, if any, expunged upon finding: (1) The arrest occurred because of mistaken identity;

- (2) a court has found that there was no probable cause for the arrest;
- (3) the petitioner was found not guilty in court proceedings; or
- (4) the expungement would be in the best interests of justice and:

(A) Charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest. *If the case was appealed from municipal court, the clerk of the district court shall send a certified copy of the order of expungement to the municipal court. The municipal court shall order the case expunged once the certified copy of the order of expungement is received.* If an order of expungement is entered, the petitioner shall be treated as not having been arrested.

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interests of public welfare, the records should be available for any of the following purposes: (1) In any application for employment as a detective with a private detective agency, as defined in K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services;

(2) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(3) to aid in determining the petitioner's qualifications for employ-

ment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(4) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(5) in any application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(6) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(7) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or

(8) in any other circumstances which the court deems appropriate.

(f) The court shall make all expunged records and related information in such court's possession, created prior to, on and after July 1, 2011, available to the Kansas bureau of investigation for the purposes of:

(1) Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(2) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(g) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(h) Whenever a petitioner's arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as directed by the order of expungement or when requested by the person whose arrest record was expunged.

(i) The docket fee collected at the time the petition for expungement is filed shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

Sec. 15. K.S.A. 2015 Supp. 22-3609 is hereby amended to read as follows: 22-3609. ~~(1)~~ (a) The defendant shall have the right to appeal to the district court of the county from any judgment of a municipal court which adjudges the defendant guilty of a violation of the ordinances of

any municipality of Kansas or any findings of contempt. The appeal shall be assigned by the chief judge to a district judge. The appeal shall stay all further proceedings upon the judgment appealed from.

~~(2)~~(b) An appeal to the district court shall be taken by filing, in the district court of the county in which the municipal court is located, a notice of appeal and any appearance bond required by the municipal court. Municipal court clerks are hereby authorized to accept notices of appeal and appearance bonds under this subsection and shall forward such notices and bonds to the district court. No appeal shall be filed until after the sentence has been imposed. No appeal shall be taken more than 14 days after the date the sentence is imposed.

~~(3)~~(c) The notice of appeal shall designate the judgment or part of the judgment appealed from. The defendant shall cause notice of the appeal to be served upon the city attorney prosecuting the case. The judge whose judgment is appealed from or the clerk of the court, if there is one, shall certify the complaint and warrant to the district court of the county, but failure to do so shall not affect the validity of the appeal.

~~(4)~~(d) Except as provided herein, the trial of municipal appeal cases shall be to the court unless a jury trial is requested in writing by the defendant not later than seven days after first notice of trial assignment is given to the defendant or such defendant's counsel. The time requirement provided in this subsection regarding when a jury trial shall be requested may be waived in the discretion of the court upon a finding that imposing such time requirement would cause undue hardship or prejudice to the defendant. A jury in a municipal appeal case shall consist of six members. All appeals taken by a defendant from a municipal judge in contempt findings, cigarette or tobacco infraction or traffic infraction cases shall be tried by the court.

~~(5)~~(e) Notwithstanding the other provisions of this section, appeal from a conviction rendered pursuant to ~~subsection (b) of~~ K.S.A. 12-4416(b), and amendments thereto, shall be conducted only on the record of the stipulation of facts relating to the complaint.

(f) *At the conclusion of the case, the district court shall send notice of dismissal, conviction or acquittal to the municipal court clerk.*

New Sec. 16. If any provision of this bill or the application thereof to any person or circumstances is held unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the bill which can be given effect without the unconstitutional or invalid portion or application, and, to this end, the provisions of this bill are severable.

Sec. 17. K.S.A. 20-122, 20-123, 20-130, 20-132, 20-2904 and 20-2907 and K.S.A. 2015 Supp. 7-127, 12-4516, 12-4516d, 20-2909, 20-3020, 21-6614, 21-6614f, 22-2410 and 22-3609 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 16, 2016.

CHAPTER 94

House Substitute for SENATE BILL No. 402

AN ACT concerning public assistance; relating to cash assistance, food assistance, medical assistance and child care subsidies; eligibility; recovery of assistance debt; verification of identity and income; fraud investigations; work requirements; lifetime benefit limits; removing certain limitations under the electronic claims management system; amending K.S.A. 39-719b and K.S.A. 2015 Supp. 39-702, 39-709 and 39-7,121 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 39-702 is hereby amended to read as follows: 39-702. The following words and phrases when used in this act shall, for the purposes of this act, have the meanings respectively ascribed to them in this section:

(a) “Secretary” means the secretary for children and families, unless otherwise specified.

(b) “Applicants” means all persons who, as individuals, or in whose behalf requests are made of the secretary for aid or assistance.

(c) “Social welfare service” may include such functions as giving assistance, the prevention of public dependency, and promoting the rehabilitation of dependent persons or those who are approaching public dependency.

(d) “Assistance” includes such items or functions as the giving or providing of money, food assistance, food, clothing, shelter, medicine or other materials, the giving of any service, including instructive or scientific. The definitions of social welfare service and assistance in this section shall be deemed as partially descriptive and not limiting.

(e) “Temporary assistance to needy families” means financial assistance with respect to or on behalf of a dependent child or dependent children and includes financial assistance for any month to meet the needs of the relative or qualifying caretaker with whom any dependent child is living.

(f) “Medical assistance” means the payment of all or part of the cost of necessary: (1) Medical, remedial, rehabilitative or preventive care and services ~~which~~ *that* are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act and furnished by health care providers who have a current approved provider agreement with the secretary; and (2) transportation to obtain care and

services ~~which~~ *that* are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act.

(g) “Dependent children” means needy children under the age of 18, or who are under the age of 19 and are full-time students in secondary schools or the equivalent educational program who are in the care of a biological or adoptive parent, court appointed guardian, conservator or legal custodian and who are living with any relative, including first cousins, uncles, aunts, and persons of preceding generations are denoted by prefixes of grand, great, or great-great, and including the spouses or former spouses of any persons named in the above groups, in a place of residence maintained by one or more of such relatives as their own home.

(h) “The blind” means not only those who are totally and permanently devoid of vision, but also those persons whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential.

(i) “Recipient” means a person who has received assistance under the terms of this act.

(j) “Intake office” means the place where the secretary shall maintain an office for receiving applications.

(k) “Adequate consideration” means consideration equal, or reasonably proportioned to the value of that for which it is given.

(l) “Title IV-D” means part D of title IV of the federal social security act, (42 U.S.C. § 651 et seq.), as in effect on May 1, 1997.

(m) “TANF diversion assistance” means a one-time voluntary payment option in lieu of ongoing TANF assistance. The diversion payment is available to applicants who have not received TANF assistance as an adult, and is designed to meet a crisis or emergency hardship that would endanger such applicants’ ability to remain employed or to accept an offer of employment. Any household that includes such recipient accepting the diversion payment is ineligible to receive on-going TANF assistance for 12 months after receipt of the diversion payment. Any recipient who receives a diversion payment is limited to ~~42~~ 18 months of TANF cash assistance in a lifetime, unless such recipient shall meet a hardship criteria as defined by the secretary.

(n) “Non-cooperation” means the failure of the applicant or recipient to comply with all requirements provided in state and federal law, rules and regulations and agency policy.

Sec. 2. K.S.A. 2015 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife

or cohabiting partners are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse, cohabiting partner or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for temporary assistance for needy families, for food assistance and for any other assistance provided through the Kansas department for children and families under which federal moneys are expended, the secretary for children and families shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any boat, personal water craft, recreational vehicle, recreational off-highway vehicle or all-terrain vehicle, as defined by K.S.A. 8-126, and amendments thereto, or any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance except that any additional motor vehicle used by the applicant, the applicant's spouse or the applicant's cohabiting partner for the primary purpose of earning income may be considered as exempt personal property in the secretary's discretion.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas.

(b) *Temporary assistance for needy families.* Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as temporary assistance for needy families. ~~On and after January 1, 2017, the department shall conduct an electronic check for any false information provided on an application for TANF and other benefits programs administered by the department.~~ Where the husband and wife or cohabiting partners are living together, both shall register for work under the program requirements for temporary assistance for needy families in accordance with criteria and guidelines prescribed by rules and regulations of the secretary.

(1) As used in this subsection, "family group" or "household" means the applicant or recipient for TANF, child care subsidy or employment services and all individuals living together in which there is a relationship of legal responsibility or a qualifying caretaker relationship. This will include a cohabiting boyfriend or girlfriend living with the person legally responsible for the child. The family group shall not be eligible for TANF

if the family group contains at least one adult member who has received TANF, including the federal TANF assistance received in any other state, for ~~36~~ 24 calendar months beginning on and after October 1, 1996, unless the secretary determines a hardship exists and grants an extension allowing receipt of TANF until the ~~48-month~~ 36-month limit is reached. No extension beyond ~~48~~ 36 months shall be granted. Hardship provisions for a recipient include:

(A) Is a caretaker of a disabled family member living in the household;

(B) has a disability which precludes employment on a long-term basis or requires substantial rehabilitation;

(C) needs a time limit extension to overcome the effects of domestic violence/sexual assault;

(D) is involved with prevention and protection services (PPS) and has an open social service plan; or

(E) is determined by the ~~36th~~ 24th month to have an extreme hardship other than what is designated in criteria listed in subparagraphs (A) through ~~(E)~~ (D). This determination will be made by the executive review team.

(2) All adults applying for TANF shall be required to complete a work program assessment as specified by the Kansas department for children and families, including those who have been disqualified for or denied TANF due to non-cooperation, drug testing requirements or fraud. Adults who are not otherwise eligible for TANF, such as ineligible aliens, relative/non-relative caretakers and adults receiving supplemental security income are not required to complete the assessment process. During the application processing period, applicants must complete at least one module or its equivalent of the work program assessment to be considered eligible for TANF benefits, unless good cause is found to be exempt from the requirements. Good cause exemptions shall only include:

(A) The applicant can document an existing certification verifying completion of the work program assessment;

(B) the applicant has a valid offer of employment or is employed a minimum of 20 hours a week;

(C) the applicant is a parenting teen without a GED or high school diploma;

(D) the applicant is enrolled in job corps;

(E) the applicant is working with a refugee social services agency; or

(F) the applicant has completed the work program assessment within the last 12 months.

(3) The department for children and families shall maintain a sufficient level of dedicated work program staff to enable the agency to conduct work program case management services to TANF recipients in a timely manner and in full accordance with state law and agency policy.

(4) TANF mandatory work program applicants and recipients shall

participate in work components that lead to competitive, integrated employment. Components are defined by the federal government as being either primary or secondary. In order to meet federal work participation requirements, households need to meet at least 30 hours of participation per week, at least 20 hours of which need to be primary and at least 10 hours may be secondary components in one parent households where the youngest child is six years of age or older. Participation hours shall be 55 hours in two parent households (35 hours per week if child care is not used). The maximum assignment is 40 hours per week per individual. For two parent families to meet the federal work participation rate both parents must participate in a combined total of 55 hours per week, 50 hours of which must be in primary components, or one or both parents could be assigned a combined total of 35 hours per week (30 hours of which must be primary components) if department for children and families paid child care is not received by the family. Single parent families with a child under age six meet the federal participation requirement if the parent is engaged in work or work activities for at least 20 hours per week in a primary work component. The following components meet federal definitions of primary hours of participation: Full or part-time employment, apprenticeship, work study, self-employment, job corps, subsidized employment, work experience sites, on-the-job training, supervised community service, vocational education, job search and job readiness. Secondary components include: Job skills training, education directly related to employment such as adult basic education and English as a second language, and completion of a high school diploma or GED.

(5) A parent or other adult caretaker personally providing care for a child under the age of three months in their TANF household is exempt from work participation activities until the month the child turns three months of age. Such three-month limitation shall not apply to a parent or other adult caretaker who is personally providing care for a child born significantly premature, with serious medical conditions or with a disability as defined by the secretary, in consultation with the secretary of health and environment, and adopted in the rules and regulations. The three-month period is defined as two consecutive months starting with the month after childbirth. The exemption for caring for a child under three months cannot be claimed:

(A) By either parent when two parents are in the home and the household meets the two-parent definition for federal reporting purposes;

(B) by one parent or caretaker when the other parent or caretaker is in the home, and available, capable and suitable to provide care and the household does not meet the two-parent definition for federal reporting purposes;

(C) by a person age 19 or younger when such person is pregnant or a parent of a child in the home and the person does not possess a high

school diploma or its equivalent. Such person shall become exempt the month such person turns age 20; *or*

(D) ~~by any adult in the TANF assistance plan when at least one adult has reached the 36 months of TANF cash assistance; or~~

~~(E)~~—by any person assigned to a work participation activity for substance use disorders.

(6) TANF work experience placements shall be reviewed after 90 days and are limited to six months per ~~48-month~~ *24-month* lifetime limit. A client's progress shall be reviewed prior to each new placement regardless of the length of time they are at the work experience site.

(7) TANF participants with disabilities shall engage in required employment activities to the maximum extent consistent with their abilities. TANF participants shall provide current documentation by a qualified medical practitioner that details the abilities to engage in employment and any limitations in work activities along with the expected duration of such limitations. Disability is defined as a physical or mental impairment constituting or resulting in a substantial impediment to employment for such individual.

(8) Non-cooperation is the failure of the applicant or recipient to comply with all requirements provided in state and federal law, federal and state rules and regulations and agency policy. The period of ineligibility for TANF benefits based on non-cooperation with work programs shall be as follows:

(A) For a first penalty, three months and full cooperation with work program activities;

(B) for a second penalty, six months and full cooperation with work program activities;

(C) for a third penalty, one year and full cooperation with work program activities; and

(D) for a fourth or subsequent penalty, 10 years.

(9) Individuals that have not cooperated with TANF work programs shall be ineligible to participate in the food assistance program. The comparable penalty shall be applied to only the individual in the food assistance program who failed to comply with the TANF work requirement. The agency shall impose the same penalty to the member of the household who failed to comply with TANF requirements. The penalty periods are three months, six months, one year, or 10 years.

(10) Non-cooperation is the failure of the applicant or recipient to comply with all requirements provided in state and federal law, federal and state rules and regulations and agency policy. The period of ineligibility for child care subsidy or TANF benefits based on parents' non-cooperation with child support services shall be as follows:

(A) For the first penalty, three months and cooperation with child support services prior to regaining eligibility;

(B) for a second penalty, six months and cooperation with child support services prior to regaining eligibility;

(C) for a third penalty, one year and cooperation with child support services prior to regaining eligibility; and

(D) for a fourth penalty, 10 years.

(11) Individuals that have not cooperated without good cause with child support services shall be ineligible to participate in the food assistance program. The period of disqualification ends once it has been determined that such individual is cooperating with child support services.

(12) (A) Any individual who is found to have committed fraud or is found guilty of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2015 Supp. 21-5801, and amendments thereto, in either the TANF or child care program shall render all adults in the family unit ineligible for TANF assistance. Adults in the household who were determined to have committed fraud or were convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2015 Supp. 21-5801, and amendments thereto, shall render themselves and all adult household members ineligible for their lifetime for TANF, even if fraud was committed in only one program. Households who have been determined to have committed fraud or were convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2015 Supp. 21-5801, and amendments thereto, shall be required to name a protective payee as approved by the secretary or the secretary's designee to administer TANF benefits or food assistance on behalf of the children. No adult in a household may have access to the TANF cash assistance benefit.

(B) Any individual that has failed to cooperate with a fraud investigation shall be ineligible to participate in the TANF cash assistance program and the child care subsidy program until the department for children and families determines that such individual is cooperating with the fraud investigation. The department for children and families shall maintain a sufficient level of fraud investigative staff to enable the department to conduct fraud investigations in a timely manner and in full accordance with state law and department rules and regulations or policies.

(13) (A) Food assistance shall not be provided to any person convicted of a felony offense occurring on or after July 1, 2015, which includes as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog. For food assistance, the individual shall be permanently disqualified if they have been convicted of a state or federal felony offense occurring on or after July 1, 2015, involving possession or use of a controlled substance or controlled substance analog.

(B) Notwithstanding the provisions of subparagraph (A), an individual shall be eligible for food assistance if the individual enrolls in and participates in a drug treatment program approved by the secretary, submits

to and passes a drug test and agrees to submit to drug testing if requested by the department pursuant to a drug testing plan.

An individual's failure to submit to testing or failure to successfully pass a drug test shall result in ineligibility for food assistance until a drug test is successfully passed. Failure to successfully complete a drug treatment program shall result in ineligibility for food assistance until a drug treatment plan approved by the secretary is successfully completed, the individual passes a drug test and agrees to submit to drug testing if requested by the department pursuant to a drug testing plan.

(C) The provisions of subparagraph (B) shall not apply to any individual who has been convicted for a second or subsequent felony offense as provided in subparagraph (A).

(14) No TANF cash assistance shall be used to purchase alcohol, cigarettes, tobacco products, lottery tickets, concert tickets, professional or collegiate sporting event tickets or tickets for other entertainment events intended for the general public or sexually oriented adult materials. No TANF cash assistance shall be used in any retail liquor store, casino, gaming establishment, jewelry store, tattoo parlor, massage parlor, body piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store, vapor cigarette store, psychic or fortune telling business, bail bond company, video arcade, movie theater, swimming pool, cruise ship, theme park, dog or horse racing facility, parimutuel facility, or sexually oriented business or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, or in any business or retail establishment where minors under age 18 are not permitted. ~~TANF cash assistance transactions for cash withdrawals from automated teller machines shall be limited to \$25, per transaction and to one transaction per day.~~ No TANF cash assistance shall be used for purchases at points of sale outside the state of Kansas. ~~The secretary for children and families is authorized to raise or rescind the automated teller machine withdrawal limit established by this section in order to ensure continued appropriation of the TANF block grant through compliance with the provisions of the middle class tax relief and job creation act of 2012 which govern adequate access to cash assistance.~~

(15) (A) The secretary for children and families shall place a photograph of the recipient, if agreed to by such recipient of public assistance, on any Kansas benefits card issued by the Kansas department for children and families that the recipient uses in obtaining food, cash or any other services. When a recipient of public assistance is a minor or otherwise incapacitated individual, a parent or legal guardian of such recipient may have a photograph of such parent or legal guardian placed on the card.

(B) Any Kansas benefits card with a photograph of a recipient shall be valid for voting purposes as a public assistance identification card in accordance with the provisions of K.S.A. 25-2908, and amendments thereto.

(C) As used in this paragraph and its subparagraphs, “Kansas benefits card” means any card issued to provide food assistance, cash assistance or child care assistance, including, but not limited to, the vision card, EBT card and Kansas benefits card.

(D) *The Kansas department for children and families shall monitor all recipient requests for a Kansas benefits card replacement and, upon the fourth such request in a 12-month period, send a notice alerting the recipient that the recipient’s account is being monitored for potential suspicious activity. If a recipient makes an additional request for replacement subsequent to such notice, the department shall refer the investigation to the department’s fraud investigation unit.*

(16) The secretary for children and families shall adopt rules and regulations:

(A) In determining eligibility for the child care subsidy program, including an income of a cohabiting partner in a child care household; and

(B) in determining and maintaining eligibility for non-TANF child care, requiring that all included adults shall be employed a minimum of 20 hours per week or more as defined by the secretary or meet the following specific qualifying exemptions:

(i) Adults who are not capable of meeting the requirement due to a documented physical or mental condition;

(ii) adults who are former TANF recipients who need child care for employment after their TANF case has closed and earned income is a factor in the closure in the two months immediately following TANF closure;

(iii) adult parents included in a case in which the only child receiving benefits is the child of a minor parent who is working on completion of high school or obtaining a GED; ~~or~~

(iv) adults who are participants in a ~~mandatory food assistance-education~~ *employment and training program; or*

(v) *adults who are participants in an early head start child care partnership program and are working or in school or training.*

The department for children and families shall provide child care for the pursuit of any degree or certification if the occupation has at least an average job outlook listed in the occupational outlook of the U.S. department of labor, bureau of labor statistics. For occupations with less than an average job outlook, educational plans shall require approval of the secretary or secretary’s designee. Child care may also be approved if the student provides verification of a specific job offer that will be available to such student upon completion of the program. Child care for post-secondary education shall be allowed for a lifetime maximum of 24 months per adult. The 24 months may not have to be consecutive. Students shall be engaged in paid employment for a minimum of 15 hours per week. In a two-parent adult household, child care would not be allowed if both parents are adults and attending a formal education or

training program at the same time. The household may choose which one of the parents is participating as a post-secondary student. The other parent shall meet another approvable criteria for child care subsidy.

(17) (A) The secretary for children and families is prohibited from requesting or implementing a waiver or program from the U.S. department of agriculture for the time limited assistance provisions for able-bodied adults aged 18 through 49 without dependents in a household under the food assistance program. The time on food assistance for able-bodied adults aged 18 through 49 without dependents in the household shall be limited to three months in a 36-month period if such adults are not meeting the requirements imposed by the U.S. department of agriculture that they must work for at least 20 hours per week or participate in a federally approved work program or its equivalent.

(B) *Each food assistance household member who is not otherwise exempt from the following work requirements shall: Register for work; participate in an employment and training program, if assigned to such a program by the department; accept a suitable employment offer; and not voluntarily quit a job of at least 30 hours per week.*

(C) *Any recipient who has not complied with the work requirements under subparagraph (B) shall be ineligible to participate in the food assistance program for the following time period and until the recipient complies with such work requirements:*

- (i) *For a first penalty, three months;*
- (ii) *for a second penalty, six months; and*
- (iii) *for a third penalty and any subsequent penalty, one year.*

(18) Eligibility for the food assistance program shall be limited to those individuals who are citizens or who meet qualified non-citizen status as determined by U.S. department of agriculture. Non-citizen individuals who are unable or unwilling to provide qualifying immigrant documentation, as defined by the U.S. department of agriculture, residing within a household shall not be included when determining the household's size for the purposes of assigning a benefit level to the household for food assistance or comparing the household's monthly income with the income eligibility standards. The gross non-exempt earned and unearned income and resources of disqualified individuals shall be counted in its entirety as available to the remaining household members.

(19) The secretary for children and families shall not enact the state option from the U.S. department of agriculture for broad-based categorical eligibility for households applying for food assistance according to the provisions of 7 C.F.R. § 273.2(j)(2)(ii).

(20) No federal or state funds shall be used for television, radio or billboard advertisements that are designed to promote food assistance benefits and enrollment. No federal or state funding shall be used for any agreements with foreign governments designed to promote food assistance.

(21) (A) The secretary for children and families shall not apply gross income standards for food assistance higher than the standards specified in 7 U.S.C. § 2015(c) unless expressly required by federal law. Categorical eligibility exempting households from such gross income standards requirements shall not be granted for any non-cash, in-kind or other benefit unless expressly required by federal law.

(B) The secretary for children and families shall not apply resource limits standards for food assistance that are higher than the standards specified in 7 U.S.C. § 2015(g)(1) unless expressly required by federal law. Categorical eligibility exempting households from such resource limits shall not be granted for any non-cash, in-kind or other benefit unless expressly required by federal law.

(c) (1) *On and after January 1, 2017, the department for children and families shall conduct an electronic check for any false information provided on an application for TANF and other benefits programs administered by the department. For TANF cash assistance, food assistance and the child care subsidy program, the department shall verify the identity of all adults in the assistance household.*

(2) *The department of administration shall provide monthly to the Kansas department for children and families the social security numbers or alternate taxpayer identification numbers of all persons who claim a Kansas lottery prize in excess of \$5,000 during the reported month. The Kansas department for children and families shall verify if individuals with such winnings are receiving TANF cash assistance, food assistance or assistance under the child care subsidy program and take appropriate action. The Kansas department for children and families shall use data received under this subsection solely, and for no other purpose, to determine if any recipient's eligibility for benefits has been affected by lottery prize winnings. The Kansas department for children and families shall not publicly disclose the identity of any lottery prize winner, including recipients who are determined to have illegally received benefits.*

(d) *Temporary assistance for needy families; assignment of support rights and limited power of attorney.* By applying for or receiving temporary assistance for needy families such applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. In any case in which an order for child support has been established and the legal custodian and obligee under the order surrenders physical custody of the child to a caretaker relative without obtaining a modification of legal custody and support rights on behalf of the child are assigned pursuant to this section, the surrender of physical custody and the assignment shall transfer, by operation of law, the child's support rights under the order to the secretary on behalf of the state. Such assignment

shall be of all accrued, present or future rights to support of the child surrendered to the caretaker relative. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant, recipient or obligee. By applying for or receiving temporary assistance for needy families, or by surrendering physical custody of a child to a caretaker relative who is an applicant or recipient of such assistance on the child's behalf, the applicant, recipient or obligee is also deemed to have appointed the secretary, or the secretary's designee, as an attorney-in-fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full.

~~(d)~~ (e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* (1) When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Resources from inheritance shall be counted. A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amendments thereto, shall constitute a transfer of resources. The secretary shall exempt principal and interest held in irrevocable trust pursuant to K.S.A. 16-303(c), and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance. Such assistance shall be known as medical assistance.

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient. Medical assistance eligibility for receipt of benefits under the title XIX of the social security act, commonly known as medicaid, shall not be expanded, as provided for in the patient protection and affordable care act, public law 111-148, 124 stat. 119, and the health care and education reconciliation act of 2010, public law 111-152, 124 stat. 1029, unless the legislature expressly con-

sents to, and approves of, the expansion of medicaid services by an act of the legislature.

(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

(B) If a trust has discretionary language, the trust shall be considered to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

(C) For the purposes of this paragraph, “public assistance” includes, but is not limited to, medicaid, medical assistance or title XIX of the social security act.

(4) (A) When an applicant or recipient of medical assistance is a party to a contract, agreement or accord for personal services being provided by a nonlicensed individual or provider and such contract, agreement or accord involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits, or other related issues, any moneys paid under such contract, agreement or accord shall be considered to be an available resource unless the following restrictions are met: (i) The contract, agreement or accord must be in writing and executed prior to any services being provided; (ii) the moneys paid are in direct relationship with the fair market value of such services being provided by similarly situated and trained nonlicensed individuals; (iii) if no similarly situated nonlicensed individuals or situations can be found, the value of services will be based on federal hourly minimum wage standards; (iv) such individual providing the services will report all receipts of moneys as income to the appropriate state and federal governmental revenue agencies; (v) any amounts due under such contract, agreement or accord shall be paid after the services are rendered; (vi) the applicant or recipient shall have the power to revoke the contract, agreement or accord; and (vii) upon the death of the applicant or recipient, the contract, agreement or accord ceases.

(B) When an applicant or recipient of medical assistance is a party to a written contract for personal services being provided by a licensed health professional or facility and such contract involves health and welfare monitoring, pharmacy assistance, case management, communication

with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits or other related issues, any moneys paid in advance of receipt of services for such contracts shall be considered to be an available resource.

(5) Any trust may be amended if such amendment is permitted by the Kansas uniform trust code.

~~(e)~~ (f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

~~(f)~~ (g) *Medical assistance; assignment of rights to medical support and limited power of attorney; recovery from estates of deceased recipients.* (1) (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303 of the federal medicare catastrophic coverage act of 1988, whichever is applicable, by applying for or receiving medical assistance under a medical care plan in which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments, representing payments received by the secretary in on behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for assistance and shall remain in effect until the assignment has been terminated in full. The assignment of any rights to payment for medical care from a third party under this subsection shall not prohibit a health care provider from directly billing

an insurance carrier for services rendered if the provider has not submitted a claim covering such services to the secretary for payment. Support amounts collected on behalf of persons whose rights to support are assigned to the secretary only under this subsection and no other shall be distributed pursuant to K.S.A. 39-756(d), and amendments thereto, except that any amounts designated as medical support shall be retained by the secretary for repayment of the unreimbursed portion of assistance. Amounts collected pursuant to the assignment of rights to payment for medical care from a third party shall also be retained by the secretary for repayment of the unreimbursed portion of assistance.

(B) Notwithstanding the provisions of subparagraph (A), the secretary of health and environment, or the secretary's designee, is hereby authorized to and shall exercise any of the powers specified in subparagraph (A) in relation to performance of such secretary's duties pertaining to medical subrogation, estate recovery or any other duties assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(2) The amount of any medical assistance paid after June 30, 1992, under the provisions of subsection ~~(d)~~ (e) is: (A) A claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient or, if there is no estate, the estate of the surviving spouse, if any, shall be charged for such medical assistance paid to either or both; and (B) a claim against any funds of such recipient or spouse in any account under K.S.A. 9-1215, 17-2263, 17-2264, 17-5828 or 17-5829, and amendments thereto. There shall be no recovery of medical assistance correctly paid to or on behalf of an individual under subsection ~~(d)~~ (e) except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or is blind or permanently and totally disabled. Transfers of real or personal property by recipients of medical assistance without adequate consideration are voidable and may be set aside. Except where there is a surviving spouse, or a surviving child who is under 21 years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under subsection ~~(d)~~ (e) is a claim against the estate in any guardianship or conservatorship proceeding. The monetary value of any benefits received by the recipient of such medical assistance under long-term care insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall be a credit against the amount of the claim provided for such medical assistance under this subsection. The secretary of health and environment is authorized to enforce each claim provided for under this subsection. The secretary of health and environment shall not be required to pursue every claim, but is granted discretion to determine which claims to pursue. All moneys received by the secretary of health and environment from claims under this subsection shall be deposited in the social welfare fund. The secretary of health and environ-

ment may adopt rules and regulations for the implementation and administration of the medical assistance recovery program under this subsection.

(3) By applying for or receiving medical assistance under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, such individual or such individual's agent, fiduciary, guardian, conservator, representative payee or other person acting on behalf of the individual consents to the following definitions of estate and the results therefrom:

(A) If an individual receives any medical assistance before July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under paragraph (2), such claim is limited to the individual's probatable estate as defined by applicable law; and

(B) if an individual receives any medical assistance on or after July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under paragraph (2), such claim shall apply to the individual's medical assistance estate. The medical assistance estate is defined as including all real and personal property and other assets in which the deceased individual had any legal title or interest immediately before or at the time of death to the extent of that interest or title. The medical assistance estate includes, without limitation assets conveyed to a survivor, heir or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, transfer-on-death deed, payable-on-death contract, life estate, trust, annuities or similar arrangement.

(4) The secretary of health and environment or the secretary's designee is authorized to file and enforce a lien against the real property of a recipient of medical assistance in certain situations, subject to all prior liens of record and transfers for value to a bona fide purchaser of record. The lien must be filed in the office of the register of deeds of the county where the real property is located within one year from the date of death of the recipient and must contain the legal description of all real property in the county subject to the lien.

(A) After the death of a recipient of medical assistance, the secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by such recipient.

(B) The secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by a recipient of medical assistance during the lifetime of such recipient. Such lien may be filed only after notice and an opportunity for a hearing has been given. Such lien may be enforced only upon competent medical testimony that the recipient cannot reasonably be expected to be discharged and returned home. A six-month period of compensated inpatient care at a nursing home or other medical institution shall constitute a determination

by the department of health and environment that the recipient cannot reasonably be expected to be discharged and returned home. To return home means the recipient leaves the nursing or medical facility and resides in the home on which the lien has been placed for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. The amount of the lien shall be for the amount of assistance paid by the department of health and environment until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient. After the lien is filed against any real property owned by the recipient, such lien will be dissolved if the recipient is discharged, returns home and resides upon the real property to which the lien is attached for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. If the recipient is readmitted as an inpatient to a nursing or medical facility for a continuous period of less than 90 days, another continuous period of at least 90 days shall be completed prior to dissolution of the lien.

(5) The lien filed by the secretary of health and environment or the secretary's designee for medical assistance correctly received may be enforced before or after the death of the recipient by the filing of an action to foreclose such lien in the Kansas district court or through an estate probate court action in the county where the real property of the recipient is located. However, it may be enforced only:

- (A) After the death of the surviving spouse of the recipient;
- (B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;
- (C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or
- (D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

(6) The lien remains on the property even after a transfer of the title by conveyance, sale, succession, inheritance or will unless one of the following events occur:

- (A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary of health and environment or the secretary's designee;
- (B) the lien is terminated by foreclosure of prior lien of record or settlement action taken in lieu of foreclosure; or
- (C) the value of the real property is consumed by the lien, at which time the secretary of health and environment or the secretary's designee may force the sale for the real property to satisfy the lien.

(7) If the secretary for aging and disability services or the secretary

of health and environment, or both, or such secretary's designee has not filed an action to foreclose the lien in the Kansas district court in the county where the real property is located within 10 years from the date of the filing of the lien, then the lien shall become dormant, and shall cease to operate as a lien on the real estate of the recipient. Such dormant lien may be revived in the same manner as a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and amendments thereto.

(8) Within seven days of receipt of notice by the secretary for children and families or the secretary's designee of the death of a recipient of medical assistance under this subsection, the secretary for children and families or the secretary's designee shall give notice of such recipient's death to the secretary of health and environment or the secretary's designee.

(9) All rules and regulations adopted on and after July 1, 2013, and prior to July 1, 2014, to implement this subsection shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of health and environment until revised, amended, revoked or nullified pursuant to law.

~~(g)~~ (h) *Placement under the revised Kansas code for care of children or revised Kansas juvenile justice code; assignment of support rights and limited power of attorney.* In any case in which the secretary for children and families pays for the expenses of care and custody of a child pursuant to K.S.A. 2015 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, including the expenses of any foster care placement, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments for the child is, by operation of law, conveyed to the secretary. Such assignment shall become effective upon placement of a child in the custody of the secretary or upon payment of the expenses of care and custody of a child by the secretary without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the secretary pays for the expenses of care and custody of a child or a child is placed in the custody of the secretary, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the secretary, or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

~~(h)~~ (i) No person who voluntarily quits employment or who is fired from employment due to gross misconduct as defined by rules and regulations of the secretary or who is a fugitive from justice by reason of a

felony conviction or charge or violation of a condition of probation or parole imposed under federal or state law shall be eligible to receive public assistance benefits in this state. Any recipient of public assistance who fails to timely comply with monthly reporting requirements under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations.

~~(j)~~ (j) If the applicant or recipient of temporary assistance for needy families is a mother of the dependent child, as a condition of the mother's eligibility for temporary assistance for needy families the mother shall identify by name and, if known, by current address the father of the dependent child except that the secretary may adopt by rules and regulations exceptions to this requirement in cases of undue hardship. Any recipient of temporary assistance for needy families who fails to cooperate with requirements relating to child support services under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary.

~~(k)~~ (k) By applying for or receiving child care benefits or food assistance, the applicant or recipient shall be deemed to have assigned, pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the state only accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. By applying for or receiving child care benefits or food assistance, the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full. An applicant or recipient who has assigned support rights to the secretary pursuant to this subsection shall cooperate in establishing and enforcing support obligations to the same extent required of applicants for or recipients of temporary assistance for needy families.

~~(l)~~ (l) (1) A program of drug screening for applicants for cash assistance as a condition of eligibility for cash assistance and persons receiving cash assistance as a condition of continued receipt of cash assistance shall be established, subject to applicable federal law, by the secretary for children and families on and before January 1, 2014. Under such program of drug screening, the secretary for children and families shall order a drug

screening of an applicant for or a recipient of cash assistance at any time when reasonable suspicion exists that such applicant for or recipient of cash assistance is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, an applicant's or recipient's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the applicant or recipient indicating unlawful use of a controlled substance or controlled substance analog.

(2) Any applicant for or recipient of cash assistance whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any applicant for or recipient of cash assistance who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such applicant or recipient who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

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

(4) If an applicant for or recipient of cash assistance is ineligible for or terminated from cash assistance as a result of a positive test for unlawful use of a controlled substance or controlled substance analog, and such applicant for or recipient of cash assistance is the parent or legal guardian of a minor child, an appropriate protective payee shall be designated to receive cash assistance on behalf of such child. Such parent or legal guardian of the minor child may choose to designate an individual to receive cash assistance for such parent's or legal guardian's minor child, as approved by the secretary for children and families. Prior to the designated individual receiving any cash assistance, the secretary for children and families shall review whether reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog.

(A) In addition, any individual designated to receive cash assistance on behalf of an eligible minor child shall be subject to drug screening at any time when reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, the designated individual's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the designated individual indicating unlawful use of a controlled substance or controlled substance analog.

(B) Any designated individual whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any designated individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such designated individual who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(C) Upon any positive test for unlawful use of a controlled substance or controlled substance analog, the designated individual shall not receive cash assistance on behalf of the parent's or legal guardian's minor child, and another designated individual shall be selected by the secretary for children and families to receive cash assistance on behalf of such parent's or legal guardian's minor child.

(5) If a person has been convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation,

distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall thereby become forever ineligible to receive any cash assistance under this subsection unless such conviction is the person's first conviction. First-time offenders convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall become ineligible to receive cash assistance for five years from the date of conviction.

(6) Except for hearings before the Kansas department for children and families or, the results of any drug screening administered as part of the drug screening program authorized by this subsection shall be confidential and shall not be disclosed publicly.

(7) The secretary for children and families may adopt such rules and regulations as are necessary to carry out the provisions of this subsection.

(8) Any authority granted to the secretary for children and families under this subsection shall be in addition to any other penalties prescribed by law.

(9) As used in this subsection:

(A) "Cash assistance" means cash assistance provided to individuals under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant to such statutes.

(B) "Controlled substance" means the same as in K.S.A. 2015 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(C) "Controlled substance analog" means the same as in K.S.A. 2015 Supp. 21-5701, and amendments thereto.

Sec. 3. K.S.A. 39-719b is hereby amended to read as follows: 39-719b. (a) If at any time during the continuance of assistance to any person, the recipient thereof becomes possessed of any property or income in excess of the amount ascertained at the time of granting assistance, or if any of the recipient's circumstances which affect eligibility to receive assistance change from the time of determination of eligibility, it shall be the duty of the recipient to notify the secretary immediately of the receipt or possession of such property, income, or of such change in circumstances affecting eligibility and ~~said~~ the secretary may, after investigation, cancel or modify the assistance payment in accordance with the circumstances.

(b) Any assistance paid shall be recoverable by the secretary as a debt due to the state. If during the life or on the death of any person receiving assistance, it is found that the recipient was possessed of income or property in excess of the amount reported or ascertained at the time of grant-

ing assistance, and if it be shown that such assistance was obtained by an ineligible recipient, the total amount of the assistance may be recovered by the secretary as a fourth class claim from the estate of the recipient or in an action brought against the recipient while living.

(c) The total amount of any assistance that is sold, transferred or otherwise disposed of to others by a recipient or any other person, or the total amount of any assistance that is knowingly purchased, acquired or possessed by any person, except as authorized in state and federal law, rules and regulations and agency policy of the department for children and families or the department of health and environment is a debt due to the state and the total amount of such assistance that was improperly sold, transferred, disposed, purchased, acquired or possessed shall be recoverable by the secretary for children and families or the secretary of health and environment. Such debt may be recovered during the life or upon the death of any recipient or person who sold, transferred, disposed, purchased, acquired or possessed such assistance and may be recovered as a fourth class claim from the estate of the person or in an action brought against the recipient or person while living.

Sec. 4. K.S.A. 2015 Supp. 39-7,121 is hereby amended to read as follows: 39-7,121. (a) The department of health and environment shall establish and implement an electronic pharmacy claims management system in order to provide for the on-line adjudication of claims and for electronic prospective drug utilization review.

(b) The system shall provide for electronic point-of-sale review of drug therapy using predetermined standards to screen for potential drug therapy problems including incorrect drug dosage, adverse drug-drug interactions, drug-disease contraindications, therapeutic duplication, incorrect duration of drug treatment, drug-allergy interactions and clinical abuse or misuse.

(c) The department of health and environment shall not utilize ~~this~~ *the system established under this section*, or any other system or program, to require that a recipient has utilized or failed with a drug usage or drug therapy prior to allowing the recipient to receive the product or therapy recommended by the recipient's physician:

(1) If such recommended drug usage or drug therapy commenced on or before July 1, 2016; or

(2) for a period of longer than 30 days, if the drug usage or drug therapy is used for the treatment of multiple sclerosis.

(d) (1) If the department of health and environment utilizes the system established under this section, or any other system or program, to require that a recipient has utilized or failed with a drug usage or drug therapy prior to allowing the recipient to receive any product or therapy recommended by the recipient's physician, the department shall provide access for prescribing physicians to a clear and convenient process to

request an override of such requirement. The department shall expeditiously grant such request for an override if:

(A) The required drug usage or drug therapy is contraindicated for the patient or will likely cause an adverse reaction by or physical or mental harm to the patient;

(B) the required drug usage or drug therapy is expected to be ineffective based on the known relevant clinical characteristics of the patient and the known characteristics of the required drug usage or drug therapy;

(C) the patient has tried the required drug usage or drug therapy while under the patient's current or previous health insurance or health benefit plan, and such use was discontinued due to lack of efficacy or effectiveness, diminished effect or an adverse event. For purposes of this paragraph, use of pharmacy drug samples shall not constitute use and failure of such drug usage or drug therapy; or

(D) the patient has previously been found to be stable on a different drug usage or drug therapy selected by such patient's physician for treatment of the medical condition under consideration.

(2) The department of health and environment, or any managed care organization or other entity administering the system established under this section, or any other similar system or program, shall respond to and render a decision upon a prescribing physician's request for an override as provided in this subsection within 72 hours of receiving such request.

(e) (1) Any proposed department of health and environment policy or rule and regulation related to any use of the system established under this section, or any other system or program, to require that a recipient has utilized or failed with a drug usage or drug therapy prior to allowing the recipient to receive any product or therapy recommended by the recipient's physician, shall be reviewed and approved by the medicaid drug utilization review board established by K.S.A. 2015 Supp. 39-7,119, and amendments thereto, prior to implementation by the department.

(2) Any proposed policy or rule and regulation related to use of any such system related to any medication used to treat mental illness shall be reviewed and approved by the mental health medication advisory committee established by K.S.A. 2015 Supp. 39-7,121b, and amendments thereto, and the medicaid drug utilization review board established by K.S.A. 2015 Supp. 39-7,119, and amendments thereto, prior to implementation by the department.

(f) The secretary of health and environment shall study and review the use of the program established under this section and prepare a report detailing the exact amount of money saved by using such program that requires that a recipient utilized or failed a drug usage or drug therapy prior to allowing the recipient to receive any product or therapy recommended by the recipient's physician and the percentage and amount of such savings that are returned to the state of Kansas. The secretary shall submit such report to the senate committee on public health and welfare,

the senate committee on ways and means, the house committee on appropriations and the house committee on health and human services on or before January 9, 2017 and on or before the first day of the regular session of the legislature each year thereafter.

Sec. 5. K.S.A. 39-719b and K.S.A. 2015 Supp. 39-702, 39-709 and 39-7,121 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 16, 2016.

CHAPTER 95

Senate Substitute for HOUSE BILL No. 2018

AN ACT concerning controlled substances; relating to the uniform controlled substances act; substances included in schedules I, III and IV; prescription of amphetamines; amending K.S.A. 65-4127e and K.S.A. 2015 Supp. 65-2837a, 65-4105, 65-4109 and 65-4111 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 65-2837a is hereby amended to read as follows: 65-2837a. (a) It shall be unlawful for any person licensed to practice medicine and surgery to prescribe, order, dispense, administer, sell, supply or give or for a mid-level practitioner as defined in ~~subsection (ii) of K.S.A. 65-1626(ii)~~, and amendments thereto, to prescribe, administer, supply or give any amphetamine or sympathomimetic amine designated in schedule II, III or IV under the uniform controlled substances act, except as provided in this section. Failure to comply with this section by a licensee shall constitute unprofessional conduct under K.S.A. 65-2837, and amendments thereto.

(b) When any licensee prescribes, orders, dispenses, administers, sells, supplies or gives or when any mid-level practitioner as defined in ~~subsection (ii) of K.S.A. 65-1626(ii)~~, and amendments thereto, prescribes, administers, sells, supplies or gives any amphetamine or sympathomimetic amine designated in schedule II, III or IV under the uniform controlled substances act, the patient's medical record shall adequately document the purpose for which the drug is being given. Such purpose shall be restricted to one or more of the following:

- (1) The treatment of narcolepsy.
- (2) The treatment of drug-induced brain dysfunction.
- (3) The treatment of ~~hyperkinesia~~ *attention-deficit/hyperactivity disorder*.
- (4) The differential diagnostic psychiatric evaluation of depression.

(5) The treatment of depression shown by adequate medical records and documentation to be unresponsive to other forms of treatment.

(6) The clinical investigation of the effects of such drugs or compounds, in which case, before the investigation is begun, the licensee shall, in addition to other requirements of applicable laws, apply for and obtain approval of the investigation from the board of healing arts.

(7) The treatment of obesity with controlled substances, as may be defined by rules and regulations adopted by the board of healing arts.

(8) *The treatment of binge eating disorder.*

(9) The treatment of any other disorder or disease for which such drugs or compounds have been found to be safe and effective by competent scientific research which findings have been generally accepted by the scientific community, in which case, the licensee before prescribing, ordering, dispensing, administering, selling, supplying or giving the drug or compound for a particular condition, or the licensee before authorizing a mid-level practitioner to prescribe the drug or compound for a particular condition, shall obtain a determination from the board of healing arts that the drug or compound can be used for that particular condition.

Sec. 2. K.S.A. 2015 Supp. 65-4105 is hereby amended to read as follows: 65-4105. (a) The controlled substances listed in this section are included in schedule I and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1)	<i>Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)</i>	9821
(1) (2)	Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide).....	9815
(2) (3)	Acetylmethadol.....	9601
(3) (4)	Allylprodine.....	9602
(4) (5)	Alphacetylmethadol.....	9603
	(except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM)	
(5) (6)	Alphameprodine.....	9604
(6) (7)	Alphamethadol.....	9605
(7) (8)	Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenylethyl)-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).....	9814
(8) (9)	Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).....	9832
(9) (10)	Benzethidine.....	9606

(10) (11)	Betacetylmethadol	9607
(11) (12)	Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide)	9830
(12) (13)	Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide)	9831
(13) (14)	Betameprodine	9608
(14) (15)	Betamethadol	9609
(15) (16)	Betaprodine	9611
(16) (17)	Clonitazene	9612
(17) (18)	Dextromoramide	9613
(18) (19)	Diampromide	9615
(19) (20)	Diethylthiambutene	9616
(20) (21)	Difenoxin	9168
(21) (22)	Dimenoxadol	9617
(22) (23)	Dimepheptanol	9618
(23) (24)	Dimethylthiambutene	9619
(24) (25)	Dioxaphetyl butyrate	9621
(25) (26)	Dipipanone	9622
(26) (27)	Ethylmethylthiambutene	9623
(27) (28)	Etonitazene	9624
(28) (29)	Etoxidine	9625
(29) (30)	Furethidine	9626
(30) (31)	Hydroxypethidine	9627
(31) (32)	Ketobemidone	9628
(32) (33)	Levomoramide	9629
(33) (34)	Levophenacymorphan	9631
(34) (35)	3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide)	9813
(35) (36)	3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide)	9833
(36) (37)	Morpheridine	9632
(37) (38)	MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)	9661
(38) (39)	Noracymethadol	9633
(39) (40)	Norlevorphanol	9634
(40) (41)	Normethadone	9635
(41) (42)	Norpipanone	9636
(42) (43)	Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide)	9812
(43) (44)	PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine)	9663
(44) (45)	Phenadoxone	9637
(45) (46)	Phenampramide	9638
(46) (47)	Phenomorphane	9647
(47) (48)	Phenoperidine	9641

~~(48)~~(49) Piritramide 9642
~~(49)~~(50) Proheptazine 9643
~~(50)~~(51) Propерidine 9644
~~(51)~~(52) Propiram 9649
~~(52)~~(53) Racemoramide 9645
~~(53)~~(54) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide) 9835
~~(54)~~(55) Tilidine 9750
~~(55)~~(56) Trimeperidine 9646

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine 9319
(2) Acetyldihydrocodeine 9051
(3) Benzylmorphine 9052
(4) Codeine methylbromide 9070
(5) Codeine-N-Oxide 9053
(6) Cyprenorphine 9054
(7) Desomorphine 9055
(8) Dihydromorphine 9145
(9) Drotebanol 9335
(10) Etorphine (except hydrochloride salt) 9056
(11) Heroin 9200
(12) Hydromorphanol 9301
(13) Methyl-desorphine 9302
(14) Methyl-dihydromorphine 9304
(15) Morphine methylbromide 9305
(16) Morphine methylsulfonate 9306
(17) Morphine-N-Oxide 9307
(18) Myrophine 9308
(19) Nicocodeine 9309
(20) Nicomorphine 9312
(21) Normorphine 9313
(22) Pholcodine 9314
(23) Thebacon 9315

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) 4-bromo-2,5-dimethoxy-amphetamine 7391
Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine;
4-bromo-2,5-DMA.

(2) 2,5-dimethoxyamphetamine 7396
Some trade or other names: 2,5-dimethoxy-alpha-methyl-phenethylamine; 2,5-DMA.

(3) 4-methoxyamphetamine 7411
Some trade or other names: 4-methoxy-alpha-methylphenethylamine;
paramethoxyamphetamine; PMA.

(4) 5-methoxy-3,4-methylenedioxy-amphetamine 7401

(5) 4-methyl-2,5-dimethoxy-amphetamine 7395
Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; “DOM”; and “STP”.

(6) 3,4-methylenedioxy amphetamine 7400

(7) 3,4-methylenedioxy-methamphetamine (MDMA)..... 7405

(8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, and MDEA) 7404

(9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4-(methylenedioxy) phenethylamine, and N-hydroxy MDA) 7402

(10) 3,4,5-trimethoxy amphetamine 7390

(11) Bufotenine 7433
Some trade or other names: 3-(Beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine.

(12) Diethyltryptamine 7434
Some trade or other names: N,N-Diethyltryptamine; DET.

(13) Dimethyltryptamine..... 7435
Some trade or other names: DMT.

(14) Ibogaine..... 7260
Some trade or other names: 7-Ethyl-6,6-Beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano -5H-pyrido[1',2':1,2] azepino [5,4-b]indole; Tabernanthe iboga

(15) Lysergic acid diethylamide..... 7315

(16) Marijuana..... 7360

(17) Mescaline..... 7381

(18) Parahexyl 7374
Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl.

(19) Peyote 7415

Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.

- (20) N-ethyl-3-piperidyl benzilate 7482
- (21) N-methyl-3-piperidyl benzilate 7484
- (22) Psilocybin 7437
- (23) Psilocyn 7438
Some trade or other names: Psilocin.
- (24) Ethylamine analog of phencyclidine 7455
Some trade or other names: N-ethyl-1-phenyl-cyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE.
- (25) Pyrrolidine analog of phencyclidine 7458
Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; PHP.
- (26) Thiophene analog of phencyclidine 7470
Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP.
- (27) 1-[1-(2-thienyl)-cyclohexyl] pyrrolidine 7473
Some other names: TCPy.
- (28) 2,5-dimethoxy-4-ethylamphetamine 7399
Some trade or other names: DOET.
- (29) *Salvia divinorum* or *salvinorum A*; all parts of the plant presently classified botanically as *salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.
- (30) *Datura stramonium*, commonly known as gypsum weed or jimson weed; all parts of the plant presently classified botanically as *datura stramonium*, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.
- (31) N-benzylpiperazine 7493
Some trade or other names: BZP.
- (32) 1-(3-[trifluoromethylphenyl])piperazine
Some trade or other names: TFMPP.
- (33) 4-Bromo-2,5-dimethoxyphenethylamine 7392

- (34) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7),
its optical isomers, salts and salts of optical isomers 7348
- (35) Alpha-methyltryptamine (other name: AMT) 7432
- (36) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT),
its isomers, salts and salts of isomers 7439
- (37) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E)..... 7509
- (38) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D) 7508
- (39) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)..... 7519
- (40) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I) 7518
- (41) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)... 7385
- (42) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine
(2C-T-4) 7532
- (43) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)..... 7517
- (44) 2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine (2C-N)..... 7521
- (45) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P)..... 7524
- (46) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT) 7431
Some trade or other names: 5-methoxy-3-[2-(
(dimethylamino)ethyl]indole.
- (47) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-
methoxybenzyl)ethanamine 7538
Some trade or other names: 25I-NBOMe;
2C-I-NBOMe; 25I; Cimbi-5.
- (48) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-
methoxybenzyl)ethanamine 7537
Some trade or other names: 25C-NBOMe;
2C-C-NBOMe; 25C; Cimbi-82.
- (49) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-
methoxybenzyl)ethanamine 7536
Some trade or other names: 25B-NBOMe; 2C-B-
NBOMe; 25B; Cimbi-36.
- (50) 2-(2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine
Some trade or other names: 25H-NBOMe.
- (51) 2-(2,5-dimethoxy-4-methylphenyl)-N-(2-
methoxybenzyl)ethanamine
Some trade or other names: 25D-NBOMe; 2C-D-NBOMe.
- (52) 2-(2,5-dimethoxy-4-nitrophenyl)-N-(2-methoxybenzyl)ethanamine
Some trade or other names: 25N-NBOMe, 2C-N-NBOMe.

(e) Any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Mecloqualone 2572
- (2) Methaqualone 2565

(3) Gamma hydroxybutyric acid

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

- (1) Fenethylamine 1503
- (2) N-ethylamphetamine 1475
- (3) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine) 1590
- (4) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine) 1480
- (5) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alpha-amino propiophenone, 2-amino propiophenone and norphedrone) 1235

(6) Substituted cathinones

Any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

- (A) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
- (B) by substitution at the 3-position with an acyclic alkyl substituent;
- (C) by substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or
- (D) by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(g) Any material, compound, mixture or preparation which contains any quantity of the following substances:

- (1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamidebenzylfentanyl), its optical isomers, salts and salts of isomers 9818
- (2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers 9834
- (3) Aminorex (some other names: Aminoxaphen 2-amino-5-phenyl-2-oxazoline or 4,5-dihydro-5-phenyl-2-oxazolamine, its salts, optical isomers and salts of optical isomers) 1585

(4) Alpha-ethyltryptamine, its optical isomers, salts and salts of isomers..... 7249
 Some other names: etryptamine, alpha-methyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole.

(h) Any of the following cannabinoids, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Tetrahydrocannabinols 7370
 Meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers Delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(2) Naphthoylindoles
 Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

(3) Naphthylmethylindoles
 Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

(4) Naphthoylpyrroles
 Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

- (5) Naphthylmethylenes
Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.
- (6) Phenylacetylindoles
Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.
- (7) Cyclohexylphenols
Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent.
- (8) Benzoylindoles
Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.
- (9) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone. Some trade or other names: WIN 55,212-2.
- (10) 9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol
Some trade or other names: HU-210, HU-211.
- (11) Tetramethylcyclopropanoylindoles
Any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl

group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the benzyl or tetramethylcyclopropyl rings to any extent.

(12) Indole-3-carboxylate esters

Any compound containing a 1H-indole-3-carboxylate ester structure with the ester oxygen bearing a naphthyl, quinolinyl, isoquinolinyl or adamantyl group and substitution at the 1 position of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, N-methyl-2-piperidinylmethyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthyl, quinolinyl, isoquinolinyl, adamantyl or benzyl groups to any extent.

(13) Indazole-3-carboxamides

Any compound containing a 1H-indazole-3-carboxamide structure with substitution at the nitrogen of the carboxamide by a naphthyl, quinolinyl, isoquinolinyl, adamantyl ~~or~~, 1-amino-1-oxoalkan-2-yl *or 1-alkoxy-1-oxoalkan-2-yl* group and substitution at the 1 position of the indazole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, N-methyl-2-piperidinylmethyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indazole ring to any extent and whether or not substituted on the naphthyl, quinolinyl, isoquinolinyl, adamantyl, 1-amino-1-oxoalkan-2-yl, *1-alkoxy-1-oxoalkan-2-yl* or benzyl groups to any extent.

(14) (1H-indazol-3-yl)methanones

Any compound containing a (1H-indazol-3-yl)methanone structure with the carbonyl carbon bearing a naphthyl group and substitution at the 1 position of the indazole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, N-methyl-2-piperidinylmethyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indazole ring to any extent and whether or not substituted on the naphthyl or benzyl groups to any extent.

Sec. 3. K.S.A. 2015 Supp. 65-4109 is hereby amended to read as follows: 65-4109. (a) The controlled substances listed in this section are included in schedule III and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Any compound, mixture or preparation containing:
 - (A) Amobarbital.....2126
 - (B) Secobarbital.....2316
 - (C) Pentobarbital.....2271
 or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.
- (2) Any suppository dosage form containing:
 - (A) Amobarbital.....2126
 - (B) Secobarbital.....2316
 - (C) Pentobarbital.....2271
 or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.
- (3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules2100
- (4) Chlorhexadol2510
- (5) Lysergic acid7300
- (6) Lysergic acid amide7310
- (7) Methyprylon2575
- (8) Sulfondiethylmethane2600
- (9) Sulfonethylmethane2605
- (10) Sulfonmethane.....2610
- (11) Tiletamine and zolazepam or any salt thereof7295
 Some trade or other names for a tiletamine-zolazepam combination product: Telazol
 Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone
 Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one, flupyrazapon
- (12) Ketamine, its salts, isomers, and salts of isomers7285
 Some other names for ketamine: (±)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone
- (13) Gamma hydroxybutyric acid, any salt, hydroxybutyric compound, derivative or preparation of gamma hydroxybutyric acid contained in a drug product for which an application has been approved under section 505 of the federal food, drug and cosmetic act
- (14) Embutramide2020
- (15) Perampanel, its salts, isomers, and salts of isomers2261
 Some other names for perampanel: 2-(2-oxo-1-phenyl-5-pyridin-2-yl-1,2 dihydropyridin-3-yl) benzonitrile

- (c) Nalorphine.....9400
- (d) Any material, compound, mixture or preparation containing any of the following narcotic drugs or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
 - (1) Not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium 9803
 - (2) not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts 9804
 - (3) not more than 1.8 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts 9807
 - (4) not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts 9808
 - (5) not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts 9809
 - (6) not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts ... 9810
 - (7) any material, compound, mixture or preparation containing any of the following narcotic drugs or their salts, as set forth below:
 - (A) Buprenorphine..... 9064
- (e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:
 - (1) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substance listed in schedule II, which compounds, mixtures or preparations were listed on August 25, 1971, as excepted compounds under section 308.32 of title 21 of the code of federal regulations, and any other drug of the

quantitative composition shown in that list for those drugs or which is the same, except that it contains a lesser quantity of controlled substances 1405

(2) Benzphetamine 1228

(3) Chlorphentermine 1645

(4) Clortermine 1647

(5) Phendimetrazine 1615

(f) Anabolic steroids 4000

“Anabolic steroid” means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (1) Boldenone
- (2) chlorotestosterone (4-chlortestosterone)
- (3) clostebol
- (4) dehydrochlormethyltestosterone
- (5) dihydrotestosterone (4-dihydrotestosterone)
- (6) drostanolone
- (7) ethylestrenol
- (8) fluoxymesterone
- (9) formebolone (formebolone)
- (10) mesterolone
- (11) methandienone
- (12) methandranone
- (13) methandriol
- (14) methandrostenolone
- (15) methasterone (2 α ,17 α -dimethyl-5 α -androstano-17 β -ol-3-one)
- (16) methenolone
- (17) methyltestosterone
- (18) mibolerone
- (19) nandrolone
- (20) norethandrolone
- (21) oxandrolone
- (22) oxymesterone
- (23) oxymetholone
- (24) prostanazol (17 β -hydroxy-5 α -androstano[3,2-c]pyrazole)
- (25) stanolone
- (26) stanozolol
- (27) testolactone
- (28) testosterone
- (29) trenbolone
- (30) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

- (A) Except as provided in (B), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States' secretary of health and human services for such administration.
- (B) If any person prescribes, dispenses or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of this subsection (f).

(g) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substance, its salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product 7369
 Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6-6-9-trimethyl-3-pentyl-6H-dibenzo(b,d)pyran-1-0l, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(h) The board may except by rule any compound, mixture or preparation containing any stimulant or depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

Sec. 4. K.S.A. 2015 Supp. 65-4111 is hereby amended to read as follows: 65-4111. (a) The controlled substances listed in this section are included in schedule IV and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation and having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Alprazolam 2882
- (2) Barbital..... 2145
- (3) Bromazepam 2748

(4)	Camazepam.....	2749
(5)	Carisoprodol.....	8192
(6)	Chloral betaine	2460
(7)	Chloral hydrate	2465
(8)	Chlordiazepoxide.....	2744
(9)	Clobazam	2751
(10)	Clonazepam.....	2737
(11)	Clorazepate	2768
(12)	Clotiazepam	2752
(13)	Cloxazolam.....	2753
(14)	Delorazepam	2754
(15)	Diazepam.....	2765
(16)	Dichloralphenazone	2467
(17)	Estazolam	2756
(18)	Ethchlorvynol	2540
(19)	Ethinamate.....	2545
(20)	Ethyl loflazepate	2758
(21)	Fludiazepam.....	2759
(22)	Flunitrazepam.....	2763
(23)	Flurazepam	2767
(24)	Fospropofol.....	2138
(25)	Halazepam	2762
(26)	Haloxazolam	2771
(27)	Ketazolam	2772
(28)	Loprazolam	2773
(29)	Lorazepam	2885
(30)	Lormetazepam.....	2774
(31)	Mebutamate	2800
(32)	Medazepam.....	2836
(33)	Meprobamate	2820
(34)	Methohexital.....	2264
(35)	Methylphenobarbital (mephobarbital)	2250
(36)	Midazolam	2884
(37)	Nimetazepam	2837
(38)	Nitrazepam.....	2834
(39)	Nordiazepam	2838
(40)	Oxazepam	2835
(41)	Oxazolam	2839
(42)	Paraldehyde.....	2585
(43)	Petrichloral.....	2591
(44)	Phenobarbital	2285
(45)	Pinazepam.....	2883
(46)	Prazepam	2764
(47)	Quazepam.....	2881
(48)	Temazepam.....	2925

(49) Tetrazepam2886
 (50) Triazolam2887
 (51) Zolpidem2783
 (52) Zaleplon.....2781
 (53) Zopiclone2784
 (54) 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol,
 its salts, optical and geometric isomers and salts of these
 isomers (including tramadol)9752
 (55) Alfaxalone2731
 (56) Suvorexant2223

(c) Any material, compound, mixture, or preparation which contains any quantity of fenfluramine (1670), including its salts, isomers (whether optical, position or geometric) and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible. The provisions of this subsection (c) shall expire on the date fenfluramine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(d) Any material, compound, mixture or preparation which contains any quantity of lorcaserin (1625), including its salts, isomers and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine).....1230
 (2) Diethylpropion.....1610
 (3) Fencamfamin.....1760
 (4) Fenproporex.....1575
 (5) Mazindol.....1605
 (6) Mefenorex.....1580
 (7) Pemoline (including organometallic complexes and chelates
 thereof).....1530
 (8) Phentermine.....1640

The provisions of this subsection (e)(8) shall expire on the date phentermine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(9) Pipradrol.....1750
 (10) SPA((-)-1-dimethylamino-1, 2-diphenylethane)1635

- (11) Sibutramine..... 1675
- (12) Ondansetron 1680

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following, including salts thereof:

- (1) Pentazocine 9709
- (2) Butorphanol (including its optical isomers)..... 9720
- (3) *Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl]][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid)(including its optical isomers) and its salts, isomers, and salts of isomers..... 9725*

(g) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit..... 9167
- (2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propion-oxybutane)..... 9278

(h) Butyl nitrite and its salts, isomers, esters, ethers or their salts.

(i) The board may except by rule and regulation any compound, mixture or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Sec. 5. K.S.A. 65-4127e is hereby amended to read as follows: 65-4127e. (a) For purposes of sentencing pursuant to this act, substances and quantities shall be as follows:

SUBSTANCE.....	gm
Alpha-Methylfentanyl.....	1
Amphetamine	25
Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.....	50
Cannabis Resin or Hashish	25
Cocaine.....	25
D-Lysergic Acid2 pure or
Diethylamide/Lysergide/LSD	200 dosage units
Dextropropoxyphene/Propoxyphene	100
Diazepam.....	50
Diethyltryptamine/DET	50

Dimethyltryptamine/DMT 50

Fentanyl 2

Hashish Oil 10

Heroin 5

Hydrocodone/Dihydrocodeinone 50

Hydromorphone/Dihydromorphinone 25

Marijuana/Cannabis 1500

Marijuana/Cannabis Plant 50 plants

Meperidine/Pethidine 100

Mescaline 10

Methamphetamine 25

Methaqualone 50

Morphine 25

Mushrooms containing ~~Psilocin~~ *Psilocyn* and/or Psilocybin 100

Opium 100

Oxycodone 25

Pentazocine 50

Peyote 100

Phencyclidine/PCP 5

Phentermine 50

Phenylacetone PP 25

~~Psilocin~~ *Psilocyn* 2

Psilocybin 2

Tetrahydrocannabinol 5

3-Methylfentanyl 1

3,4-Methylene-dioxyamphetamine/MDA 10

3,4-Methylene-dioxymethamphetamine/MDMA 10

(b) Any reference to a particular controlled substance in this section includes all salts, isomers and all salts of isomers. Any reference to cocaine includes ecgonine and coca leaves, except extracts of coca leaves from which cocaine and ecgonine have been removed.

(c) The scale amounts for all controlled substances in this section refer to the total weight of the controlled substance. If any mixture of a compound contains any detectable amount of a controlled substance, the entire amount of the mixture or compound shall be considered in measuring the quantity. If a mixture or compound contains a detectable amount of more than one controlled substance, the most serious controlled substance shall determine the categorization of the entire quantity.

(d) The provisions of this section shall not be applicable to crimes committed on or after July 1, 1993.

Sec. 6. K.S.A. 65-4127e and K.S.A. 2015 Supp. 65-2837a, 65-4105, 65-4109 and 65-4111 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 17, 2016.

Published in the *Kansas Register* May 26, 2016.

CHAPTER 96

HOUSE BILL No. 2501

AN ACT concerning crimes, punishment and criminal procedure; creating the crimes of unlawful transmission of a visual depiction of a child and unlawful possession of a visual depiction of a child; relating to blackmail; breach of privacy; jurisdiction and venue; crime committed with an electronic device; prohibiting offender registration for certain crimes; amending K.S.A. 2015 Supp. 21-5428, 21-5510, 21-6101, 22-2619 and 22-4902 and repealing the existing sections.

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

New Section 1. (a) Unlawful transmission of a visual depiction of a child is knowingly transmitting a visual depiction of a child 12 or more years of age but less than 18 years of age in a state of nudity when the offender is less than 19 years of age.

(b) Aggravated unlawful transmission of a visual depiction of a child is:

(1) Knowingly transmitting a visual depiction of a child 12 or more years of age but less than 18 years of age in a state of nudity:

(A) With the intent to harass, embarrass, intimidate, defame or otherwise inflict emotional, psychological or physical harm;

(B) for pecuniary or tangible gain; or

(C) with the intent to exhibit or transmit such visual depiction to more than one person; and

(2) when the offender is less than 19 years of age.

(c) (1) Unlawful transmission of a visual depiction of a child is a:

(A) Class A person misdemeanor, except as provided in subsection (c)(1)(B); and

(B) severity level 10, person felony upon a second or subsequent conviction.

(2) Aggravated unlawful transmission of a visual depiction of a child is a:

(A) Severity level 9, person felony, except as provided in subsection (c)(2)(B); and

(B) severity level 7, person felony upon a second or subsequent conviction.

(d) It shall be a rebuttable presumption that an offender had the intent to harass, embarrass, intimidate, defame or otherwise inflict emo-

tional, psychological or physical harm if the offender transmitted a visual depiction of a person other than such child in a state of nudity to more than one person.

(e) The provisions of this section shall not apply to transmission of a visual depiction of a child in a state of nudity by the child who is the subject of such visual depiction.

(f) The provisions of this section shall not apply to a visual depiction of a child engaged in sexually explicit conduct or a visual depiction that constitutes obscenity as defined in K.S.A. 2015 Supp. 21-6401(f)(1), and amendments thereto.

(g) As used in this section and section 2, and amendments thereto:

(1) “Sexually explicit conduct” means actual or simulated: Sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex; masturbation and sado-masochistic abuse for the purpose of sexual stimulation;

(2) “state of nudity” means any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered;

(3) “transmission” means any form of communication, including, but not limited to, physical transmission of paper and electronic transmission that creates a record that may be retained and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process. Transmission also includes a request to receive a transmission of a visual depiction; and

(4) “visual depiction” means any photograph, film, video picture, digital or computer-generated image or picture made or produced by electronic, mechanical or other means.

New Sec. 2. (a) Unlawful possession of a visual depiction of a child is knowingly possessing a visual depiction of a child 12 years of age or older but less than 16 years of age in a state of nudity, if committed by a person less than 19 years of age, and the possessor of such visual depiction received such visual depiction directly and exclusively from the child who is the subject of such visual depiction.

(b) Unlawful possession of a visual depiction of a child is a class B person misdemeanor.

(c) It shall be an affirmative defense to any prosecution under this section that the recipient of a visual depiction of a child in a state of nudity:

(1) Received such visual depiction without requesting, coercing or otherwise attempting to obtain such visual depiction;

(2) did not transmit, exhibit or disseminate such visual depiction; and

(3) made a good faith effort to erase, delete or otherwise destroy such visual depiction.

(d) The provisions of this section shall not apply to possession of a visual depiction of a child in a state of nudity if the person possessing such visual depiction is the child who is the subject of such visual depiction.

(e) The provisions of this section shall not apply to a visual depiction of a child engaged in sexually explicit conduct or a visual depiction that constitutes obscenity as defined in K.S.A. 2015 Supp. 21-6401(f)(1), and amendments thereto.

(f) It shall not be unlawful for a person who is less than 19 years of age to possess a visual depiction of a child in a state of nudity who is 16 years of age or older.

Sec. 3. K.S.A. 2015 Supp. 21-5428 is hereby amended to read as follows: 21-5428. (a) Blackmail is intentionally gaining or attempting to gain anything of value or compelling or attempting to compel another to act against such person's will, by threatening to:

(1) Communicate accusations or statements about any person that would subject such person or any other person to public ridicule, contempt or degradation; or

(2) disseminate any videotape, photograph, film, or image obtained in violation of ~~subsection (a)(6)~~ of K.S.A. 2015 Supp. 21-6101(a)(6) or (a)(8), and amendments thereto.

(b) Blackmail as defined in:

(1) Subsection (a)(1) is a severity level 7, nonperson felony; and

(2) subsection (a)(2) is a severity level 4, person felony.

Sec. 4. K.S.A. 2015 Supp. 21-5510 is hereby amended to read as follows: 21-5510. (a) *Except as provided in sections 1 and 2, and amendments thereto*, sexual exploitation of a child is:

(1) Employing, using, persuading, inducing, enticing or coercing a child under 18 years of age, or a person whom the offender believes to be a child under 18 years of age, to engage in sexually explicit conduct with the intent to promote any performance;

(2) possessing any visual depiction of a child under 18 years of age shown or heard engaging in sexually explicit conduct with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender or any other person;

(3) being a parent, guardian or other person having custody or control of a child under 18 years of age and knowingly permitting such child to engage in, or assist another to engage in, sexually explicit conduct for any purpose described in subsection (a)(1) or (2); or

(4) promoting any performance that includes sexually explicit conduct by a child under 18 years of age, or a person whom the offender believes to be a child under 18 years of age, knowing the character and content of the performance.

(b) (1) Sexual exploitation of a child as defined in:

(A) Subsection (a)(2) or (a)(3) is a severity level 5, person felony; and
 (B) subsection (a)(1) or (a)(4) is a severity level 5, person felony, except as provided in subsection (b)(2).

(2) Sexual exploitation of a child as defined in subsection (a)(1) or (a)(4) or attempt, conspiracy or criminal solicitation to commit sexual exploitation of a child as defined in subsection (a)(1) or (a)(4) is an off-grid person felony, when the offender is 18 years of age or older and the child is under 14 years of age.

(c) If the offender is 18 years of age or older and the child is under 14 years of age, the provisions of:

(1) ~~Subsection (c) of K.S.A. 2015 Supp. 21-5301(c)~~, and amendments thereto, shall not apply to a violation of attempting to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4);

(2) ~~subsection (e) of K.S.A. 2015 Supp. 21-5302(c)~~, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4); and

(3) ~~subsection (d) of K.S.A. 2015 Supp. 21-5303(d)~~, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of sexual exploitation of a child as defined in subsection (a)(1) or (a)(4).

(d) As used in this section:

(1) “Sexually explicit conduct” means actual or simulated: Exhibition in the nude; sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex; masturbation; sado-masochistic abuse with the intent of sexual stimulation; or lewd exhibition of the genitals, female breasts or pubic area of any person;

(2) “promoting” means procuring, transmitting, distributing, circulating, presenting, producing, directing, manufacturing, issuing, publishing, displaying, exhibiting or advertising:

(A) For pecuniary profit; or

(B) with intent to arouse or gratify the sexual desire or appeal to the prurient interest of the offender or appeal to the

(3) “performance” means any film, photograph, negative, slide, book, magazine or other printed or visual medium, any audio tape recording or any photocopy, video tape, video laser disk, computer hardware, software, floppy disk or any other computer related equipment or computer generated image that contains or incorporates in any manner any film, photograph, negative, photocopy, video tape or video laser disk or any play or other live presentation;

(4) “nude” means any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered; and

(5) “visual depiction” means any photograph, film, video picture, dig-

ital or computer-generated image or picture, whether made or produced by electronic, mechanical or other means.

(e) The provisions of this section shall not apply to possession of a visual depiction of a child in a state of nudity if the person possessing such visual depiction is the child who is the subject of such visual depiction.

Sec. 5. K.S.A. 2015 Supp. 21-6101 is hereby amended to read as follows: 21-6101. (a) Breach of privacy is knowingly and without lawful authority:

(1) Intercepting, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of private communication;

(2) divulging, without the consent of the sender or receiver, the existence or contents of such message if such person knows that the message was illegally intercepted, or if such person illegally learned of the message in the course of employment with an agency in transmitting it;

(3) entering with intent to listen surreptitiously to private conversations in a private place or to observe the personal conduct of any other person or persons entitled to privacy therein;

(4) installing or using outside or inside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible without the use of such device, without the consent of the person or persons entitled to privacy therein;

(5) installing or using any device or equipment for the interception of any telephone, telegraph or other wire or wireless communication without the consent of the person in possession or control of the facilities for such communication;

(6) installing or using a concealed camcorder, motion picture camera or photographic camera of any type; to secretly videotape, film, photograph or record, by electronic or other means, another; identifiable person under or through the clothing being worn by that other person or another; identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which ~~the~~*that* other person has a reasonable expectation of privacy; ~~or~~

(7) disseminating or permitting the dissemination of any videotape, photograph, film or image obtained in violation of subsection (a)(6); ~~or~~

(8) disseminating any videotape, photograph, film or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which such identifiable person had a reasonable expectation of privacy, with the intent to harass,

threaten or intimidate such identifiable person, and such identifiable person did not consent to such dissemination.

(b) Breach of privacy as defined in:

(1) Subsection (a)(1) through (a)(5) is a class A nonperson misdemeanor;

(2) subsection (a)(6) or (a)(8) is a:

(A) Severity level 8, person felony, *except as provided in subsection (b)(2)(B)*; and

(B) *severity level 5, person felony upon a second or subsequent conviction within the previous five years; and*

(3) subsection (a)(7) is a severity level 5, person felony.

(c) Subsection (a)(1) shall not apply to messages overheard through a regularly installed instrument on a telephone party line or on an extension.

(d) The provisions of this section shall not apply to: (1) An operator of a switchboard, or any officer, employee or agent of any public utility providing telephone communications service, whose facilities are used in the transmission of a communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is incident to the rendition of public utility service or to the protection of the rights of property of such public utility; (2) *a provider of an interactive computer service, as defined in 47 U.S.C. § 230, for content provided by another person*; (3) *a radio common carrier, as defined in K.S.A. 66-1,143, and amendments thereto*; and (4) *a local exchange carrier or telecommunications carrier as defined in K.S.A. 66-1,187, and amendments thereto.*

(e) *The provisions of subsection (a)(8) shall not apply to a person acting with a bona fide and lawful scientific, educational, governmental, news or other similar public purpose.*

(f) As used in this section, “private place” means a place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

Sec. 6. K.S.A. 2015 Supp. 22-2619 is hereby amended to read as follows: 22-2619. (a) “Crime committed with an electronic device” means the commission of any crime that involves or is facilitated by the use of any electronic device, *including, but not limited to*, all violations of the following ~~are crimes committed with an electronic device~~: Criminal use of a financial card, as defined in K.S.A. 2015 Supp. 21-5828, and amendments thereto; unlawful acts concerning computers, as defined in K.S.A. 2015 Supp. 21-5839, and amendments thereto; identity theft and identity fraud, as defined in K.S.A. 2015 Supp. 21-6107, and amendments thereto; and electronic solicitation, as defined in K.S.A. 2015 Supp. 21-5509, and amendments thereto.

(b) In addition to the venue provided for under any other provision

of law, a prosecution for any crime committed with an electronic device may be brought in the county in which:

- (1) Any requisite act to the commission of the crime occurred;
- (2) the victim resides;
- (3) the victim was present at the time of the crime; or
- (4) property affected by the crime was obtained or was attempted to be obtained.

(c) This section shall be a part of and supplemental to the Kansas code for criminal procedure.

Sec. 7. K.S.A. 2015 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in the Kansas offender registration act, unless the context otherwise requires:

- (a) "Offender" means:
 - (1) A sex offender;
 - (2) a violent offender;
 - (3) a drug offender;
 - (4) any person who has been required to register under out of state law or is otherwise required to be registered; and
 - (5) any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act.
- (b) "Sex offender" includes any person who:
 - (1) On or after April 14, 1994, is convicted of any sexually violent crime;
 - (2) on or after July 1, 2002, is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;
 - (3) has been determined to be a sexually violent predator;
 - (4) on or after July 1, 1997, is convicted of any of the following crimes when one of the parties involved is less than 18 years of age:
 - (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2015 Supp. 21-5511, and amendments thereto;
 - (B) criminal sodomy, as defined in ~~subsection (a)(1) of K.S.A. 21-3505(a)(1)~~, prior to its repeal, or ~~subsection (a)(1) or (a)(2) of K.S.A. 2015 Supp. 21-5504(a)(1) or (a)(2)~~, and amendments thereto;
 - (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2015 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;
 - (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2015 Supp. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2015 Supp. 21-5513, and amendments thereto;

(5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2015 Supp. 21-5505, and amendments thereto;

(6) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense defined in this subsection; or

(7) has been convicted of an offense that is comparable to any crime defined in this subsection, or any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection.

(c) “Sexually violent crime” means:

(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, as defined in K.S.A. 21-3503, prior to its repeal, or ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-5506(a), and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-5506(b), and amendments thereto;

(4) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of~~ K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or ~~subsection (a)(3) or (a)(4) of~~ K.S.A. 2015 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-5504(b), and amendments thereto;

(6) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-5508(a), and amendments thereto;

(7) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-5508(b), and amendments thereto;

(8) 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;

(9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-5505(b), and amendments thereto;

(10) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2015 Supp. 21-5604(b), and amendments thereto;

(11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, and K.S.A. 2015 Supp. 21-5509, and amendments thereto;

(12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2015 Supp. 21-5512, and amendments thereto;

(13) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or ~~subsection (b) of~~ 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 defendant or another;

(14) commercial sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-6422, and amendments thereto;

(15) any conviction or adjudication for an offense that is comparable to a sexually violent crime as defined in this subsection, or any out of state conviction or adjudication for an offense that under the laws of this state would be a sexually violent crime as defined in this subsection;

(16) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this subsection; or

(17) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim. As used in this paragraph, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant’s sexual gratification.

(d) “Sexually violent predator” means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

(e) “Violent offender” includes any person who:

(1) On or after July 1, 1997, is convicted of any of the following crimes:

(A) 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;

(B) 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;

(C) 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;

(D) 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;

(E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or ~~subsections (a)(1), (a)(2) or (a)(4) of~~ K.S.A. 2015 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto. The provisions of this paragraph shall not apply to violations of ~~subsection (a)(3) of~~ K.S.A. 2015 Supp. 21-5405(a)(3), and amendments thereto, which occurred on or after July 1, 2011, through July 1, 2013;

(F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-5408(a), and amendments thereto;

(G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5408(b)~~, and amendments thereto;

(H) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2015 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age; or

(I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5426(b)~~, and amendments thereto, if not committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(2) on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(3) has been convicted of an offense that is comparable to any crime defined in this subsection, any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(4) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(f) “Drug offender” includes any person who, on or after July 1, 2007:

(1) Is convicted of any of the following crimes:

(A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog, as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2015 Supp. 21-5703, and amendments thereto;

(B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance, as defined in ~~subsection (a) of K.S.A. 65-7006(a)~~, prior to its repeal, ~~subsection (a) of K.S.A. 2010 Supp. 21-36a09(a)~~, prior to its transfer, or ~~subsection (a) of K.S.A. 2015 Supp. 21-5709(a)~~, and amendments thereto;

(C) K.S.A. 65-4161, prior to its repeal, ~~subsection (a)(1) of K.S.A. 2010 Supp. 21-36a05(a)(1)~~, prior to its transfer, or ~~subsection (a)(1) of K.S.A. 2015 Supp. 21-5705(a)(1)~~, and amendments thereto. The provisions of this paragraph shall not apply to violations of ~~subsections (a)(2) through (a)(6) or (b) of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6)~~ or (b) which occurred on or after July 1, 2009, through April 15, 2010;

(2) has been convicted of an offense that is comparable to any crime defined in this subsection, any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(3) is or has been convicted of an attempt, conspiracy or criminal

solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(g) Convictions or adjudications which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction or adjudication. Any conviction or adjudication set aside pursuant to law is not a conviction or adjudication for purposes of this section. A conviction or adjudication from any out of state court shall constitute a conviction or adjudication for purposes of this section.

(h) “School” means any public or private educational institution, including, but not limited to, postsecondary school, college, university, community college, secondary school, high school, junior high school, middle school, elementary school, trade school, vocational school or professional school providing training or education to an offender for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.

(i) “Employment” means any full-time, part-time, transient, day-labor employment or volunteer work, with or without compensation, for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.

(j) “Reside” means to stay, sleep or maintain with regularity or temporarily one’s person and property in a particular place other than a location where the offender is incarcerated. It shall be presumed that an offender resides at any and all locations where the offender stays, sleeps or maintains the offender’s person for three or more consecutive days or parts of days, or for ten or more nonconsecutive days in a period of 30 consecutive days.

(k) “Residence” means a particular and definable place where an individual resides. Nothing in the Kansas offender registration act shall be construed to state that an offender may only have one residence for the purpose of such act.

(l) “Transient” means having no fixed or identifiable residence.

(m) “Law enforcement agency having initial jurisdiction” means the registering law enforcement agency of the county or location of jurisdiction where the offender expects to most often reside upon the offender’s discharge, parole or release.

(n) “Registering law enforcement agency” means the sheriff’s office or tribal police department responsible for registering an offender.

(o) “Registering entity” means any person, agency or other governmental unit, correctional facility or registering law enforcement agency responsible for obtaining the required information from, and explaining the required registration procedures to, any person required to register pursuant to the Kansas offender registration act. “Registering entity” shall

include, but not be limited to, sheriff's offices, tribal police departments and correctional facilities.

(p) "Treatment facility" means any public or private facility or institution providing inpatient mental health, drug or alcohol treatment or counseling, but does not include a hospital, as defined in K.S.A. 65-425, and amendments thereto.

(q) "Correctional facility" means any public or private correctional facility, juvenile detention facility, prison or jail.

(r) "Out of state" means: the District of Columbia; any federal, military or tribal jurisdiction, including those within this state; any foreign jurisdiction; or any state or territory within the United States, other than this state.

(s) "Duration of registration" means the length of time during which an offender is required to register for a specified offense or violation.

(t) (1) *Notwithstanding any other provision of this section, "offender" shall not include any person who is:*

(A) *Convicted of unlawful transmission of a visual depiction of a child, as defined in section 1(a), and amendments thereto, aggravated unlawful transmission of a visual depiction of a child, as defined in section 1(b), and amendments thereto, or unlawful possession of a visual depiction of a child, as defined in section 2, and amendments thereto; or*

(B) *adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a crime defined in subsection (t)(1)(A).*

(2) *Notwithstanding any other provision of law, a court shall not order any person to register under the Kansas offender registration act for the offenses described in subsection (t)(1).*

Sec. 8. K.S.A. 2015 Supp. 21-5428, 21-5510, 21-6101, 22-2619 and 22-4902 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 17, 2016.

CHAPTER 97

HOUSE BILL No. 2463

AN ACT concerning crimes, punishment and criminal procedure; relating to criminal history; juvenile adjudications; probation and postrelease supervision; violation sanctions; violations of the Kansas offender registration act; amending K.S.A. 2015 Supp. 21-6810, 21-6811, 22-3716 and 22-4903 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 21-6810 is hereby amended to read as follows: 21-6810. (a) Criminal history categories contained in the sentencing guidelines grids are based on the following types of prior convictions: Person felony adult convictions, nonperson felony adult convictions, person felony juvenile adjudications, nonperson felony juvenile adjudications, person misdemeanor adult convictions, nonperson class A misdemeanor adult convictions, person misdemeanor juvenile adjudications, nonperson class A misdemeanor juvenile adjudications, select class B nonperson misdemeanor adult convictions, select class B nonperson misdemeanor juvenile adjudications and convictions and adjudications for violations of municipal ordinances or county resolutions which are comparable to any crime classified under the state law of Kansas as a person misdemeanor, select nonperson class B misdemeanor or nonperson class A misdemeanor. A prior conviction is any conviction, other than another count in the current case which was brought in the same information or complaint or which was joined for trial with other counts in the current case pursuant to K.S.A. 22-3203, and amendments thereto, which occurred prior to sentencing in the current case regardless of whether the offense that led to the prior conviction occurred before or after the current offense or the conviction in the current case.

(b) A class B nonperson select misdemeanor is a special classification established for weapons violations. Such classification shall be considered and scored in determining an offender's criminal history classification.

(c) Except as otherwise provided, all convictions, whether sentenced consecutively or concurrently, shall be counted separately in the offender's criminal history.

(d) Except as provided in K.S.A. 2015 Supp. 21-6815, and amendments thereto, the following are applicable to determining an offender's criminal history classification:

(1) Only verified convictions will be considered and scored.

(2) All prior adult felony convictions, including expungements, will be considered and scored. Prior adult felony convictions for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed.

(3) There will be no decay factor applicable for:

(A) Adult convictions;

(B) a juvenile adjudication for an offense which would constitute a *nondrug severity level 1 through 4* person felony if committed by an adult. Prior juvenile adjudications for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed;

(C) a juvenile adjudication for an offense committed before July 1, 1993, which would have been a class A, B or C felony, if committed by an adult; or

(D) a juvenile adjudication for an offense committed on or after July 1, 1993, which would be an off-grid felony, a *nondrug severity level 1, 2, 3, 4 or 5* felony, a *drug severity level 1, 2 or 3* felony for an offense committed on or after July 1, 1993, but prior to July 1, 2012, or a *drug severity level 1, 2, 3 or 4* felony for an offense committed on or after July 1, 2012, if committed by an adult.

(4) Except as otherwise provided, a juvenile adjudication will decay if the current crime of conviction is committed after the offender reaches the age of 25, and the juvenile adjudication is for an offense:

(A) Committed before July 1, 1993, which would have been a class D or E felony if committed by an adult;

(B) committed on or after July 1, 1993, which would be a *nondrug severity level 6 5, 7, 8, 9 or through 10, a non-grid felony* a *drug severity level 4* felony for an offense committed on or after July 1, 1993, but prior to July 1, 2012, or a *any drug severity level 5* felony for an offense committed on or after July 1, 2012, if committed by an adult; or

(C) which would be a misdemeanor if committed by an adult.

(5) All person misdemeanors, class A nonperson misdemeanors and class B select nonperson misdemeanors, and all municipal ordinance and county resolution violations comparable to such misdemeanors, shall be considered and scored. Prior misdemeanors for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed.

(6) Unless otherwise provided by law, unclassified felonies and misdemeanors, shall be considered and scored as nonperson crimes for the purpose of determining criminal history.

(7) Prior convictions of a crime defined by a statute which has since been repealed shall be scored using the classification assigned at the time of such conviction.

(8) Prior convictions of a crime defined by a statute which has since been determined unconstitutional by an appellate court shall not be used for criminal history scoring purposes.

(9) Prior convictions of any crime shall not be counted in determining the criminal history category if they enhance the severity level, elevate the classification from misdemeanor to felony, or are elements of the

present crime of conviction. Except as otherwise provided, all other prior convictions will be considered and scored.

(e) The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.

Sec. 2. K.S.A. 2015 Supp. 21-6811 is hereby amended to read as follows: 21-6811. In addition to the provisions of K.S.A. 2015 Supp. 21-6810, and amendments thereto, the following shall apply in determining an offender's criminal history classification as contained in the presumptive sentencing guidelines grids:

(a) Every three prior adult convictions or juvenile adjudications of class A and class B person misdemeanors in the offender's criminal history, or any combination thereof, shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes. Every three prior adult convictions or juvenile adjudications of assault as defined in K.S.A. 21-3408, prior to its repeal, or K.S.A. 2015 Supp. 21-5412(a), and amendments thereto, occurring within a period commencing three years prior to the date of conviction for the current crime of conviction shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes.

(b) A conviction of criminal possession of a firearm as defined in K.S.A. 21-4204(a)(1) or (a)(5), prior to its repeal, criminal use of weapons as defined in K.S.A. 2015 Supp. 21-6301(a)(10) or (a)(11), and amendments thereto, or unlawful possession of a firearm as in effect on June 30, 2005, and as defined in K.S.A. 21-4218, prior to its repeal, will be scored as a select class B nonperson misdemeanor conviction or adjudication and shall not be scored as a person misdemeanor for criminal history purposes.

(c) (1) If the current crime of conviction was committed before July 1, 1996, and is for K.S.A. 21-3404(b), as in effect on June 30, 1996, involuntary manslaughter in the commission of driving under the influence, then, each prior adult conviction or juvenile adjudication for K.S.A. 8-1567, and amendments thereto, shall count as one person felony for criminal history purposes.

(2) If the current crime of conviction was committed on or after July 1, 1996, and is for a violation of K.S.A. 2015 Supp. 21-5405(a)(3), and amendments thereto, each prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for: (A) Any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2015 Supp. 8-1025, and amendments thereto; or (B) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2015 Supp. 8-1025, and amendments thereto, shall count as one person felony for criminal history purposes.

(3) If the current crime of conviction is for a violation of K.S.A. 2015 Supp. 21-5413(b)(3), and amendments thereto:

(A) The first prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for the following shall count as one non-person felony for criminal history purposes: (i) Any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2015 Supp. 8-1025, and amendments thereto; or (ii) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2015 Supp. 8-1025, and amendments thereto; and

(B) each second or subsequent prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for the following shall count as one person felony for criminal history purposes: (i) Any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2015 Supp. 8-1025, and amendments thereto; or (ii) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2015 Supp. 8-1025, and amendments thereto.

(d) Prior burglary adult convictions and juvenile adjudications will be scored for criminal history purposes as follows:

(1) As a prior person felony if the prior conviction or adjudication was classified as a burglary as defined in K.S.A. 21-3715(a), prior to its repeal, or K.S.A. 2015 Supp. 21-5807(a)(1), and amendments thereto.

(2) As a prior nonperson felony if the prior conviction or adjudication was classified as a burglary as defined in K.S.A. 21-3715(b) or (c), prior to its repeal, or K.S.A. 2015 Supp. 21-5807(a)(2) or (a)(3), and amendments thereto.

The facts required to classify prior burglary adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(e) (1) Out-of-state convictions and juvenile adjudications shall be used in classifying the offender's criminal history.

(2) An out-of-state crime will be classified as either a felony or a misdemeanor according to the convicting jurisdiction:

(A) If a crime is a felony in another state, it will be counted as a felony in Kansas.

(B) If a crime is a misdemeanor in another state, the state of Kansas shall refer to the comparable offense in order to classify the out-of-state crime as a class A, B or C misdemeanor. If the comparable misdemeanor crime in the state of Kansas is a felony, the out-of-state crime shall be classified as a class A misdemeanor. If the state of Kansas does not have a comparable crime, the out-of-state crime shall not be used in classifying the offender's criminal history.

(3) The state of Kansas shall classify the crime as person or nonperson. In designating a crime as person or nonperson, comparable offenses

under the Kansas criminal code in effect on the date the current crime of conviction was committed shall be referred to. If the state of Kansas does not have a comparable offense in effect on the date the current crime of conviction was committed, the out-of-state conviction shall be classified as a nonperson crime.

(4) Convictions or adjudications occurring within the federal system, other state systems, the District of Columbia, foreign, tribal or military courts are considered out-of-state convictions or adjudications.

(5) The facts required to classify out-of-state adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(f) Except as provided in K.S.A. 21-4710(d)(4), (d)(5) and (d)(6), prior to its repeal, or K.S.A. 2015 Supp. 21-6810(d)(3)(B), (d)(3)(C), (d)(3)(D) ~~and~~, (d)(4) and (d)(5), and amendments thereto, juvenile adjudications will be applied in the same manner as adult convictions. Out-of-state juvenile adjudications will be treated as juvenile adjudications in Kansas.

(g) A prior felony conviction of an attempt, a conspiracy or a solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, to commit a crime shall be treated as a person or non-person crime in accordance with the designation assigned to the underlying crime.

(h) Drug crimes are designated as nonperson crimes for criminal history scoring.

(i) If the current crime of conviction is for a violation of K.S.A. 8-1602(b)(3) through (b)(5), and amendments thereto, each of the following prior convictions for offenses committed on or after July 1, 2011, shall count as a person felony for criminal history purposes: K.S.A. 8-235, 8-262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-1602, 8-1605 and 40-3104, and amendments thereto, and K.S.A. 2015 Supp. 21-5405(a)(3) and 21-5406, and amendments thereto, or a violation of a city ordinance or law of another state which would also constitute a violation of such sections.

(j) The amendments made to this section by 2015 House Bill No. 2053 are procedural in nature and shall be construed and applied retroactively.

Sec. 3. K.S.A. 2015 Supp. 22-3716 is hereby amended to read as follows: 22-3716. (a) At any time during probation, assignment to a community correctional services program, suspension of sentence or pursuant to subsection (e) for defendants who committed a crime prior to July 1, 1993, and at any time during which a defendant is serving a nonprison sanction for a crime committed on or after July 1, 1993, or pursuant to subsection (e), the court may issue a warrant for the arrest of a defendant for violation of any of the conditions of release or assignment, a notice to appear to answer to a charge of violation or a violation of the defendant's

nonprison sanction. The notice shall be personally served upon the defendant. The warrant shall authorize all officers named in the warrant to return the defendant to the custody of the court or to any certified detention facility designated by the court. Any court services officer or community correctional services officer may arrest the defendant without a warrant or may deputize any other officer with power of arrest to do so by giving the officer a written or verbal statement setting forth that the defendant has, in the judgment of the court services officer or community correctional services officer, violated the conditions of the defendant's release or a nonprison sanction. A written statement delivered to the official in charge of a county jail or other place of detention shall be sufficient warrant for the detention of the defendant. After making an arrest, the court services officer or community correctional services officer shall present to the detaining authorities a similar statement of the circumstances of violation. Provisions regarding release on bail of persons charged with a crime shall be applicable to defendants arrested under these provisions.

(b) (1) Upon arrest and detention pursuant to subsection (a), the court services officer or community correctional services officer shall immediately notify the court and shall submit in writing a report showing in what manner the defendant has violated the conditions of release or assignment or a nonprison sanction.

(2) Unless the defendant, after being apprised of the right to a hearing by the supervising court services or community correctional services officer, waives such hearing, the court shall cause the defendant to be brought before it without unnecessary delay for a hearing on the violation charged. The hearing shall be in open court and the state shall have the burden of establishing the violation. The defendant shall have the right to be represented by counsel and shall be informed by the judge that, if the defendant is financially unable to obtain counsel, an attorney will be appointed to represent the defendant. The defendant shall have the right to present the testimony of witnesses and other evidence on the defendant's behalf. Relevant written statements made under oath may be admitted and considered by the court along with other evidence presented at the hearing.

(3) (A) Except as otherwise provided, if the original crime of conviction was a felony, other than a felony specified in ~~subsection (i) of K.S.A. 2015 Supp. 21-6804(i)~~, and amendments thereto, and a violation is established, the court may impose the violation sanctions as provided in subsection (c)(1).

(B) Except as otherwise provided, if the original crime of conviction was a misdemeanor or a felony specified in ~~subsection (i) of K.S.A. 2015 Supp. 21-6804(i)~~, and amendments thereto, and a violation is established, the court may:

(i) Continue or modify the probation, assignment to a community

correctional services program, suspension of sentence or nonprison sanction and impose confinement in a county jail not to exceed 60 days. If an offender is serving multiple probation terms concurrently, any confinement periods imposed shall be imposed concurrently;

(ii) impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (b)(4)(B) shall not exceed 18 total days during the term of supervision; or

(iii) revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and require the defendant to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed.

(4) Except as otherwise provided, if the defendant waives the right to a hearing and the sentencing court has not specifically withheld the authority from court services or community correctional services to impose sanctions, the following sanctions may be imposed without further order of the court:

(A) If the defendant was on probation at the time of the violation, the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(B) and (c)(1)(B) shall not exceed 18 total days during the term of supervision; and

(B) if the defendant was assigned to a community correctional services program at the time of the violation, the defendant's community corrections officer, with the concurrence of the community corrections director, may impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (c)(1)(B) shall not exceed 18 total days during the term of supervision.

(c) (1) Except as otherwise provided, if the original crime of conviction was a felony, other than a felony specified in ~~subsection (i) of K.S.A. 2015 Supp. 21-6804(i)~~, and amendments thereto, and a violation is established, the court may impose the following sanctions:

(A) Continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction;

(B) continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and an intermediate sanction of confinement in a county jail to be imposed as a two-day or three-day

consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (b)(4)(B) shall not exceed 18 total days during the term of supervision;

(C) if the violator already had at least one intermediate sanction imposed pursuant to subsection (b)(4)(A), (b)(4)(B) or (c)(1)(B) related to the crime for which the original supervision was imposed, continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and remanding the defendant to the custody of the secretary of corrections for a period of 120 days, subject to a reduction of up to 60 days in the discretion of the secretary. This sanction shall not be imposed more than once during the term of supervision. The sanction imposed pursuant to this subparagraph shall begin upon pronouncement by the court and shall not be served by prior confinement credit, except as provided in subsection (c)(7);

(D) if the violator already had a sanction imposed pursuant to subsection (b)(4)(A), (b)(4)(B), (c)(1)(B) or (c)(1)(C) related to the crime for which the original supervision was imposed, continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and remanding the defendant to the custody of the secretary of corrections for a period of 180 days, subject to a reduction of up to 90 days in the discretion of the secretary. This sanction shall not be imposed more than once during the term of supervision. The sanction imposed pursuant to this subparagraph shall begin upon pronouncement by the court and shall not be served by prior confinement credit, except as provided in subsection (c)(7); or

(E) if the violator already had a sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D) related to the crime for which the original supervision was imposed, revocation of the probation, assignment to a community corrections services program, suspension of sentence or nonprison sanction and requiring such violator to serve the sentence imposed, or any lesser sentence and, if imposition of sentence was suspended, imposition of any sentence which might originally have been imposed.

(2) Except as otherwise provided in subsections (c)(3), (c)(8) and (c)(9), no offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section shall be required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections for such violation, unless such person has already had at least one prior assignment to a community correctional services program related to the crime for which the original sentence was imposed.

(3) The provisions of subsection (c)(2) shall not apply to adult felony

offenders as described in ~~subsection (a)(3)~~ of K.S.A. 75-5291(a)(3), and amendments thereto.

(4) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(5) When a new felony is committed while the offender is on probation or assignment to a community correctional services program, the new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2015 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(6) Except as provided in subsection (f), upon completion of a violation sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D) such offender shall return to community correctional services supervision. The sheriff shall not be responsible for the return of the offender to the county where the community correctional services supervision is assigned.

(7) A violation sanction imposed pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D) shall not be longer than the amount of time remaining on the offender's underlying prison sentence.

(8) (A) If the offender commits a new felony or misdemeanor ~~or absconds from supervision~~ while the offender is on probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, the court may revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (c)(1)(E) without having previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D).

(B) *If the offender absconds from supervision while the offender is on probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, the court may:*

(i) *Revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (c)(1)(E) without having previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D); or*

(ii) *sanction the offender under subsection (c)(1)(A), (c)(1)(C) or (c)(1)(D) without imposing a sanction under (c)(1)(B).*

(9) The court may revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (c)(1)(E) without having previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D) if the court finds and sets forth with particularity the reasons for finding that the safety of members of the public will be jeopardized or that the welfare of the offender will not be served by such sanction.

(10) If an offender is serving multiple probation terms concurrently, any violation sanctions imposed pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D), or any sanction imposed pursuant to subsection (c)(11), shall be imposed concurrently.

(11) If the original crime of conviction was a felony, except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2015 Supp. 8-1025, and amendments thereto, and the court makes a finding that the offender has committed one or more violations of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, the court may impose confinement in a county jail not to exceed 60 days upon each such finding. Such confinement is separate and distinct from the violation sanctions provided in subsection (c)(1)(B), (c)(1)(C), (c)(1)(D) and (c)(1)(E) and shall not be imposed at the same time as any such violation sanction.

(12) The violation sanctions provided in this subsection shall apply to any violation of conditions of release or assignment or a nonprison sanction occurring on and after July 1, 2013, regardless of when the offender was sentenced for the original crime or committed the original crime for which sentenced.

(d) A defendant who is on probation, assigned to a community correctional services program, under suspension of sentence or serving a nonprison sanction and for whose return a warrant has been issued by the court shall be considered a fugitive from justice if it is found that the warrant cannot be served. If it appears that the defendant has violated the provisions of the defendant's release or assignment or a nonprison sanction, the court shall determine whether the time from the issuing of the warrant to the date of the defendant's arrest, or any part of it, shall be counted as time served on probation, assignment to a community correctional services program, suspended sentence or pursuant to a nonprison sanction.

(e) The court shall have 30 days following the date probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction was to end to issue a warrant for the arrest or notice to appear for the defendant to answer a charge of a violation of the conditions of probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction.

(f) For crimes committed on and after July 1, 2013, a felony offender whose nonprison sanction is revoked pursuant to subsection (c) or whose underlying prison term expires while serving a sanction pursuant to subsection (c)(1)(C) or (c)(1)(D) shall serve a period of postrelease supervision upon the completion of the prison portion of the underlying sentence.

(g) Offenders who have been sentenced pursuant to K.S.A. 2015 Supp. 21-6824, and amendments thereto, and who subsequently violate a condition of the drug and alcohol abuse treatment program shall be subject to an additional nonprison sanction for any such subsequent violation. Such nonprison sanctions shall include, but not be limited to, up to 60 days in a county jail, fines, community service, intensified treatment, house arrest and electronic monitoring.

Sec. 4. 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 31st 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 181st 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.

Such violation shall be designated as a person or nonperson crime in accordance with the designation assigned to the underlying crime for which the offender is required to be registered under the Kansas offender registration act. If the offender is required to be registered under both a person and nonperson underlying crime, the violation shall be designated as a person crime.

(2) Except as provided in subsection (c)(3), aggravated violation of the Kansas offender registration act is a severity level 3, ~~person~~ felony.

Such violation shall be designated as a person or nonperson crime in accordance with the designation assigned to the underlying crime for which the offender is required to be registered under the Kansas offender registration act. If the offender is required to be registered under both a person and nonperson underlying crime, the violation shall be designated as a person crime.

(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(k), 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.

Such violation shall be designated as a person or nonperson crime in accordance with the designation assigned to the underlying crime for which the offender is required to be registered under the Kansas offender registration act. If the offender is required to be registered under both a person and nonperson underlying crime, the violation shall be designated as a person crime.

(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. 5. K.S.A. 2015 Supp. 21-6810, 21-6811, 22-3716 and 22-4903 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 17, 2016.

CHAPTER 98

HOUSE BILL No. 2617

AN ACT concerning workers compensation; relating to the medical administrator; electronic filing for administrative hearings; records disclosure; amending K.S.A. 44-534 and 44-536a and K.S.A. 2015 Supp. 44-510i and 44-550b and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 44-510i is hereby amended to read as follows: 44-510i. (a) *Subject to the approval of the secretary*, the director shall ~~contract with or appoint, subject to the approval of the secretary~~, a specialist in health services delivery, who shall be referred to as the medical administrator. The medical administrator shall be a person licensed to practice medicine and surgery in this state and, *if appointed*, shall be in the unclassified service under the Kansas civil service act.

(b) The medical administrator, subject to the direction of the director, shall have the duty of overseeing the providing of health care services to employees in accordance with the provisions of the workers compensation act, including, but not limited to:

(1) Preparing, with the assistance of the advisory panel, the fee schedule for health care services as set forth in this section;

(2) developing, with the assistance of the advisory panel, the utilization review program for health care services as set forth in this section;

(3) developing a system for collecting and analyzing data on expenditures for health care services by each type of provider under the workers compensation act; and

(4) carrying out such other duties as may be delegated or directed by the director or secretary.

(c) The director shall prepare and adopt rules and regulations which establish a schedule of maximum fees for medical, surgical, hospital, dental, nursing, vocational rehabilitation or any other treatment or services provided or ordered by health care providers and rendered to employees under the workers compensation act and procedures for appeals and review of disputed charges or services rendered by health care providers under this section:

(1) The schedule of maximum fees shall be reasonable, shall promote health care cost containment and efficiency with respect to the workers compensation health care delivery system, and shall be sufficient to ensure availability of such reasonably necessary treatment, care and attendance to each injured employee to cure and relieve the employee from the effects of the injury. The schedule shall include provisions and review procedures for exceptional cases involving extraordinary medical procedures or circumstances and shall include costs and charges for medical records and testimony.

(2) In every case, all fees, transportation costs, charges under this section and all costs and charges for medical records and testimony shall

be subject to approval by the director and shall be limited to such as are fair, reasonable and necessary. The schedule of maximum fees shall be revised as necessary at least every two years by the director to assure that the schedule is current, reasonable and fair.

(3) Any contract or any billing or charge which any health care provider, vocational rehabilitation service provider, hospital, person or institution enters into with or makes to any patient for services rendered in connection with injuries covered by the workers compensation act or the fee schedule adopted under this section, which is or may be in excess of or not in accordance with such act or fee schedule, is unlawful, void and unenforceable as a debt.

(d) There is hereby created an advisory panel to assist the director in establishing a schedule of maximum fees as required by this section. The panel shall consist of the commissioner of insurance and 11 members appointed as follows: One person shall be appointed by the Kansas medical society; one member shall be appointed by the Kansas association of osteopathic medicine; one member shall be appointed by the Kansas hospital association; one member shall be appointed by the Kansas chiropractic association; one member shall be appointed by the Kansas physical therapy association; one member shall be appointed by the Kansas occupational therapy association; and five members shall be appointed by the secretary. Of the members appointed by the secretary, two shall be representatives of employers recommended to the secretary by the Kansas chamber of commerce and industry; two shall be representatives of employees recommended to the secretary by the Kansas AFL-CIO; and one shall be a representative of providers of vocational rehabilitation services pursuant to K.S.A. 44-510g, and amendments thereto. Each appointed member shall be appointed for a term of office of two years which shall commence on July 1 of the year of appointment. Members of the advisory panel attending meetings of the advisory panel, or attending a subcommittee of the advisory panel authorized by the advisory panel, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(e) All fees and other charges paid for such treatment, care and attendance, including treatment, care and attendance provided by any health care provider, hospital or other entity providing health care services, shall not exceed the amounts prescribed by the schedule of maximum fees established under this section or the amounts authorized pursuant to the provisions and review procedures prescribed by the schedule for exceptional cases. With the exception of the rules and regulations established for the payment of selected hospital inpatient services under the diagnosis related group prospective payment system, a health care provider, hospital or other entity providing health care services shall be paid either such health care provider, hospital or other entity's usual and customary charge for the treatment, care and attendance or the maximum

fees as set forth in the schedule, whichever is less. In reviewing and approving the schedule of maximum fees, the director shall consider the following:

(1) The levels of fees for similar treatment, care and attendance imposed by other health care programs or third-party payors in the locality in which such treatment or services are rendered;

(2) the impact upon cost to employers for providing a level of fees for treatment, care and attendance which will ensure the availability of treatment, care and attendance required for injured employees;

(3) the potential change in workers compensation insurance premiums or costs attributable to the level of treatment, care and attendance provided; and

(4) the financial impact of the schedule of maximum fees upon health care providers and health care facilities and its effect upon their ability to make available to employees such reasonably necessary treatment, care and attendance to each injured employee to cure and relieve the employee from the effects of the injury.

Sec. 2. K.S.A. 44-534 is hereby amended to read as follows: 44-534.

(a) Whenever the employer, worker, Kansas workers compensation fund or insurance carrier cannot agree upon the worker's right to compensation under the workers compensation act or upon any issue in regard to workers compensation benefits due the injured worker thereunder, the employer, worker, Kansas worker's compensation fund or insurance carrier may apply in writing to the director for a determination of the benefits or compensation due or claimed to be due. The application shall be *filed* in the form prescribed by the rules and regulations of the director, *including requirements for electronic filing*, and *the application* shall set forth the substantial and material facts in relation to the claim. Whenever an application is filed under this section, the matter shall be assigned to an administrative law judge. The director shall forthwith mail a certified copy of the application to the adverse party. The administrative law judge shall proceed, upon due and reasonable notice to the parties, which shall not be less than 20 days, to hear all evidence in relation thereto and to make findings concerning the amount of compensation, if any due to the worker.

(b) No proceeding for compensation shall be maintained under the workers compensation act unless an application for a hearing is on file in the office of the director within three years of the date of the accident or within two years of the date of the last payment of compensation, whichever is later.

(c) *After implementation of rules and regulations by the director, if the workers compensation electronic filing system is inaccessible on the last day for filing, then the time for filing shall be extended to the first*

accessible day that is not a Saturday, Sunday or legal holiday. As used in this subsection:

(1) “*Last day*” means:

(A) *For electronic or facsimile filing, at midnight in the division’s time zone on the final day for filing; and*

(B) *for filing by other means, at 5 p.m. in the division’s time zone on the final day for filing; and*

(2) “*legal holiday*” means *any day declared a holiday by the president of the United States, the congress of the United States or the legislature of this state, or any day observed as a holiday by order of the governor. A half holiday shall be treated as other days and not as a holiday.*

Sec. 3. K.S.A. 44-536a is hereby amended to read as follows: 44-536a.

(a) Every pleading, motion and other ~~paper~~ document provided for by the workers compensation act of any party, who is represented by an attorney, shall be signed by at least one attorney of record in the attorney’s individual name, and the attorney’s address ~~and~~, telephone number, ~~fax number, email address and supreme court registration number~~ shall be stated. *Signature by electronic means, when utilizing the workers compensation electronic filing system, satisfies the requirements for signing.* A pleading, motion or other ~~paper~~ document provided for by the workers compensation act of any party who is not represented by an attorney shall be signed by the party *in writing or electronically, when utilizing the workers compensation electronic filing system,* and shall state the party’s name, address, telephone number, fax number and email address, *if applicable.*

(b) Except when otherwise specifically provided by rule and regulation of the director, pleadings need not be verified or accompanied by an affidavit. The signature of a person constitutes a certificate by the person: (1) That the person has read the pleading; (2) that to the best of the person’s knowledge, information and belief formed after reasonable inquiry, the pleading is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and (3) that the pleading is not imposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of resolving disputed claims for benefits.

(c) If any pleading, motion or other ~~paper~~ document provided for by the workers compensation act is not signed, such pleading, motion or other ~~paper~~ document shall not be accepted and shall be void unless it is signed promptly after the omission is called to the attention of the pleader or movant.

(d) If a pleading, motion or other ~~paper~~ document provided for by the workers compensation act is signed in violation of this section, the administrative law judge, director or board, upon motion or upon its own initiative upon notice and after opportunity to be heard, shall impose upon

the person who signed such pleading or a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other ~~paper~~ *document*, including reasonable attorney fees.

Sec. 4. K.S.A. 2015 Supp. 44-550b is hereby amended to read as follows: 44-550b. (a) All records provided to be maintained under K.S.A. 44-550, and amendments thereto, and notwithstanding the provisions of K.S.A. 45-215 et seq., and amendments thereto, shall be open to public inspection, except:

(1) Records relating to financial information submitted by an employer to qualify as a self-insurer pursuant to K.S.A. 44-532, and amendments thereto;

(2) records which relate to utilization review or peer review conducted pursuant to K.S.A. 44-510j, and amendments thereto, shall not be disclosed except to the health care provider and as otherwise specifically provided by the workers compensation act;

(3) records relating to private premises safety inspections;

(4) medical records, forms collected pursuant to ~~subsection (b) of~~ K.S.A. 44-567(b), and amendments thereto, accident reports maintained under K.S.A. 44-550, and amendments thereto, and social security numbers pertaining to an individual which shall not be disclosed except:

(A) Upon order of a court of competent jurisdiction;

(B) to the employer, its insurance carrier or its representative, from whom a worker seeks workers compensation benefits;

(C) to the division of workers compensation for its own purposes;

(D) to federal or state governmental agencies for purposes of fraud and abuse investigations *and child support enforcement, except that such disclosure shall not then be open to public inspection;*

(E) to an employer in connection with any application for employment to an employer, its insurance carrier or representatives providing: (i) A conditional offer of employment has been made; and (ii) the request for records includes a signed release by the individual, identifies the job conditionally offered by the employer and is submitted in writing, either by mail or electronic means. Requests relating to an individual under this subsection shall be considered a record to be maintained and open to public inspection under K.S.A. 44-550, and amendments thereto, except social security numbers;

(F) to the workers compensation fund for its own purposes; and

(G) to the worker upon written release by the worker.

(b) This section shall be part of and supplemental to the workers compensation act.

Sec. 5. K.S.A. 44-534 and 44-536a and K.S.A. 2015 Supp. 44-510i and 44-550b 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 17, 2016.

CHAPTER 99

Senate Substitute for HOUSE BILL No. 2156

AN ACT concerning wildlife, parks and tourism; relating to the nongame and endangered species act; amending K.S.A. 32-960a and 32-961 and repealing the existing sections.

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

Section 1. K.S.A. 32-960a is hereby amended to read as follows: 32-960a. (a) On or before January 1, 1998, the secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations establishing procedures for developing and implementing recovery plans for all species listed as in need of conservation, threatened or endangered. The secretary shall give priority to development of recovery plans for particular species based on a cumulative assessment of the scientific evidence available. Based on the priority ranking, the secretary shall develop and begin implementation of recovery plans for at least two listed species on or before January 1, 1999.

(b) Whenever a species is added to the list of threatened or endangered species, the secretary shall establish a volunteer local advisory committee composed of members broadly representative of the area affected by the addition of the species to the list. Members shall include representatives of specialists from academic institutions, agribusiness and other trade organizations, state environmental and conservation organizations and other interested organizations and individuals. In addition, the membership shall include, if appropriate, landowners and public officials representing state, local and tribal governments. To the maximum extent possible, committee membership shall evenly balance the interests of all potentially affected groups and institutions.

(c) The advisory committee shall: (1) Work with the secretary to adapt the listing of the species and the recovery plan for the species to the social and economic conditions of the affected area; and (2) disseminate information to the public about the scientific basis of the decision to list the species, the regulatory process and incentives available to landowners pursuant to this act.

(d) If a species in need of conservation receives a priority ranking to develop and begin implementation of a recovery plan, the secretary shall establish a volunteer local advisory committee in the same manner as provided by subsection (b) to work with the secretary to adapt the recovery plan and disseminate information to the public.

(e) In implementing a recovery plan for a species, the secretary shall consider any data, recommendations and information provided by the advisory committee.

(f) *The secretary shall cause each developed and implemented recovery plan to be published and maintained on the official website of the department of wildlife, parks and tourism.*

Sec. 2. K.S.A. 32-961 is hereby amended to read as follows: 32-961.

(a) Whenever any species is listed as a threatened species pursuant to K.S.A. 32-960, *and amendments thereto*, the secretary shall adopt such rules and regulations pursuant to K.S.A. 32-963, *and amendments thereto*, as the secretary deems necessary and advisable to provide for the conservation of such species. By rules and regulations adopted pursuant to K.S.A. 32-963, *and amendments thereto*, the secretary may prohibit with respect to any threatened species included in a list adopted pursuant to K.S.A. 32-960, *and amendments thereto*, *except as provided in subsection (c)*, any act which is prohibited under subsection (b) ~~with respect to any endangered species included in a list adopted pursuant to K.S.A. 32-960.~~

(b) Except as otherwise specifically provided by this section or rules and regulations adopted pursuant to this section, a special permit is required for any person subject to the jurisdiction of this state to:

(1) Export from this state any endangered species included in a list adopted pursuant to K.S.A. 32-960, *and amendments thereto*;

(2) possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any such endangered species; or

(3) act in a manner contrary to any rule and regulation adopted by the secretary pursuant to authority provided by K.S.A. 32-957 through 32-963 and 32-1009 through 32-1012, *and amendments thereto*, which pertains to such endangered species or to any threatened species of wildlife included in a list adopted pursuant to K.S.A. 32-960, *and amendments thereto*.

(c) *The provisions of subsection (b)(3) shall not apply to:*

(1) *Normal farming and ranching practices, including government cost-shared agriculture land treatment measures, unless a permit is required by another state or federal agency or such practices involve an intentional taking of a threatened species under K.S.A. 32-1010, and amendments thereto, or involve an intentional taking of an endangered species under K.S.A. 32-1011, and amendments thereto;*

(2) *development of residential and commercial property on privately owned property financed with private, nonpublic funds unless a permit is required by another state or federal agency or the development involves an intentional taking of a threatened species under K.S.A. 32-1010, and amendments thereto, or involves an intentional taking of an endangered species under K.S.A. 32-1011, and amendments thereto; or*

(3) *activities for which a person has obtained a scientific, educational*

or exhibition permit, as provided by K.S.A. 32-952, and amendments thereto.

(d) For the purposes of this section, a permit required by another state or federal agency shall not include a certification or registration.

(e) Subsection (b) ~~does~~ shall not apply to any endangered species listed pursuant to K.S.A. 32-960, and amendments thereto, and any species of wildlife determined to be an endangered species pursuant to Pub. L. 93-205 (December 28, 1973), the endangered species act of 1973, and amendments thereto, entering the state from another state or from a point outside the territorial limits of the United States and being transported to a point within or beyond the state in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

~~(d)~~(f) The secretary may issue special permits to authorize, under such terms and conditions as the secretary prescribes, any act described in subsection (b) or any act which is otherwise prohibited by rules and regulations adopted pursuant to subsection (a), for scientific purposes or to enhance the propagation or survival of the affected species. Application for such permit shall be made to the secretary or the secretary's designee and shall be accompanied by the fee prescribed pursuant to K.S.A. 32-988, and amendments thereto. The secretary shall maintain a list of permit applications under this subsection. Where such applications have been approved and special permits have been issued, the secretary shall maintain a list of such permits, including therein the name and address of the permittee and the terms and conditions prescribed for each such permit. The secretary shall keep such lists current and shall file copies thereof, along with any additions or amendments, with the secretary of the interior of the federal government.

~~(e)~~(g) Threatened or endangered species included in a list adopted pursuant to K.S.A. 32-960, and amendments thereto, may be captured or destroyed without a permit by any person in an emergency situation involving an immediate and demonstrable threat to human life.

(h) (1) For all new species listed as endangered or threatened by the secretary pursuant to this act on and after July 1, 2016, recovery plans for such species shall be completed within four years after the species is listed. If such recovery plan is not completed within four years, no permit shall be required by the secretary for any activity that would otherwise require a permit pursuant to this act until the recovery plan is complete. The provisions of this paragraph shall not apply to any species listed as endangered or threatened under the endangered species act of 1973 (Pub. L. No. 93-205).

(2) The secretary shall annually submit a report on all species listed as endangered or threatened as of June 30, 2016, to the senate committee on natural resources and the house committee on agriculture and natural resources. Such report shall include:

- (A) *The status of species with a completed recovery plan;*
- (B) *the status of species with a recovery plan currently in process, but not yet complete; and*
- (C) *future goals for completing recovery plans for any listed species that does not yet have a recovery plan.*

Sec. 3. K.S.A. 32-960a and 32-961 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 17, 2016.

CHAPTER 100

SENATE BILL No. 325

AN ACT concerning crimes, punishment and criminal procedure; relating to conditions of parole and postrelease supervision; search and seizure; amending K.S.A. 2015 Supp. 22-3717 and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through 21-4638 and 21-4642, prior to their repeal; K.S.A. 2015 Supp. 21-6617, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567, and amendments thereto; an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2015 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) An inmate sentenced to imprisonment for life without the possibility of parole pursuant to K.S.A. 2015 Supp. 21-6617, and amendments thereto, shall not be eligible for parole.

(2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2015 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for the crime of: (A) Capital murder committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; (B) murder in the first degree based upon a finding of premeditated murder committed on or after July 1, 1994, but prior to July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; and (C) murder in the first degree as described in ~~subsection (a)(2) of~~ K.S.A. 2015 Supp. 21-5402(a)(2), and amendments thereto, committed on or

after July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(3) Except as provided by subsections (b)(1), (b)(2) and (b)(5), K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2015 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2015 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(5) An inmate sentenced to imprisonment for a violation of ~~subsection (a) of~~ K.S.A. 21-3402(a), prior to its repeal, committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2015 Supp. 21-6627, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

(c) (1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608, prior to its repeal, or K.S.A. 2015 Supp. 21-6606, and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2015 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

(d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period

of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 1 through 4 crimes, drug severity levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after July 1, 2012, must serve 36 months on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 4 crimes committed on or after July 1, 2012, must serve 24 months on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 7 through 10 crimes, drug severity level 4 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 5 crimes committed on or after July 1, 2012, must serve 12 months on postrelease supervision.

(D) Persons sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, a sexually motivated crime in which the offender has been ordered to register pursuant to ~~subsection (d)(1)(D)(vii) of K.S.A. 22-3717(d)(1)(D)(vii)~~, and amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 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 serve the period of postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2015 Supp. 21-6821, and amendments thereto, on postrelease supervision.

(i) If the sentencing judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, prior to its repeal, or K.S.A. 2015 Supp. 21-6820, and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to ~~subsection (c) of K.S.A. 21-4714(e)~~, prior to its repeal, or ~~subsection (c) of K.S.A. 2015 Supp. 21-6813(e)~~, and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the prisoner review board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subsection (d)(1)(D), the court shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2015 Supp. 21-6817, and amendments thereto.

(vi) Upon petition and payment of any restitution ordered pursuant to K.S.A. 2015 Supp. 21-6604, and amendments thereto, the prisoner review board may provide for early discharge from the postrelease supervision period imposed pursuant to subsection (d)(1)(D)(i) upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated shall be registered according to the offender registration act, K.S.A. 22-4901 through 22-4910, and amendments thereto.

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2015 Supp. 21-5508, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of post-release supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(2) Persons serving a period of postrelease supervision pursuant to subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner

review board for early discharge. Upon payment of restitution, the prisoner review board may provide for early discharge.

(3) Persons serving a period of incarceration for a supervision violation shall not have the period of postrelease supervision modified until such person is released and returned to postrelease supervision.

(4) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction is revoked pursuant to ~~subsection (e) of K.S.A. 22-3716(c)~~, and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to ~~subsection (c)(1)(C) or (c)(1)(D) of K.S.A. 22-3716(c)(1)(C) or (c)(1)(D)~~, and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(5) As used in this subsection, “sexually violent crime” means:

(A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2015 Supp. 21-5503, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal, or ~~subsection (a) of K.S.A. 2015 Supp. 21-5506(a)~~, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5506(b)~~, and amendments thereto;

(D) criminal sodomy, ~~subsection (a)(2) and (a)(3) of K.S.A. 21-3505(a)(2) and (a)(3)~~, prior to its repeal, or ~~subsection (a)(3) and (a)(4) of K.S.A. 2015 Supp. 21-5504(a)(3) and (a)(4)~~, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5504(b)~~, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal, or ~~subsection (a) of K.S.A. 2015 Supp. 21-5508(a)~~, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5508(b)~~, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal, or K.S.A. 2015 Supp. 21-5510, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5505(b)~~, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or ~~subsection (b) of K.S.A. 2015 Supp. 21-5604(b)~~, and amendments thereto;

(K) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or ~~subsection (b) of 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 defendant or another;

(L) commercial sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-6422, and amendments thereto; or

(M) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2015 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section.

(6) As used in this subsection, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant’s sexual gratification.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the prisoner review board may postpone the inmate’s parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate’s parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724, prior to its repeal, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender’s conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the prisoner review board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the prisoner review board.

(g) Subject to the provisions of this section, the prisoner review board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs re-

quired by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The prisoner review board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least one month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means;

comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the prisoner review board will review the inmate's proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) (1) Before ordering the parole of any inmate, the prisoner review board shall have the inmate appear either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a

deferral. In such case, the board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to 10 years, but any such deferral shall require the board to state the basis for its findings.

(2) Inmates sentenced for a class A or class B felony who have not had a board hearing in the five years prior to July 1, 2010, shall have such inmates' cases reviewed by the board on or before July 1, 2012. Such review shall begin with the inmates with the oldest deferral date and progress to the most recent. Such review shall be done utilizing existing resources unless the board determines that such resources are insufficient. If the board determines that such resources are insufficient, then the provisions of this paragraph are subject to appropriations therefor.

(k) (1) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(2) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to ~~search or seizure~~ *searches of the person and the person's effects, vehicle, residence and property* by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment.

(3) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to ~~search or seizure~~ *searches of the person and the person's effects, vehicle, residence and property* by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity. Any law enforcement officer who conducts such a search shall submit a written report to the appropriate parole officer no later than the close of the next business day after such search. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search.

(1) The prisoner review board shall promulgate rules and regulations in accordance with K.S.A. 77-415 et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to

be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the prisoner review board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

(2) to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so;

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized not-for-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable;

(5) unless it finds compelling circumstances which would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the prisoner review board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services;

(6) shall order that the parolee or person on postrelease supervision agree in writing to be subject to ~~search or seizure~~ *searches of the person and the person's effects, vehicle, residence and property* by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be

construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment; and

(7) shall order that the parolee or person on postrelease supervision agree in writing to be subject to ~~search or seizure~~ *searches of the person and the person's effects, vehicle, residence and property* by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the prisoner review board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the prisoner review board grants the parole of an inmate, the board, within 14 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to July 1, 2014, who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section:

(1) On or before September 1, 2013, for offenders convicted of:

(A) Severity levels 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes;

(B) severity level 4 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and

(C) severity level 5 crimes on the sentencing guidelines grid for drug crimes committed on and after July 1, 2012;

(2) on or before November 1, 2013, for offenders convicted of:

(A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes;

(B) level 3 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and

(C) level 4 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012; and

(3) on or before January 1, 2014, for offenders convicted of:

(A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing guidelines grid for nondrug crimes;

(B) severity levels 1 and 2 crimes on the sentencing guidelines grid for drug crimes committed at any time; and

(C) severity level 3 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2015 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the prisoner review board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(v) Whenever the prisoner review board orders a person to be electronically monitored pursuant to this section, or the court orders a person to be electronically monitored pursuant to ~~subsection (r)~~ of K.S.A. 2015 Supp. 21-6604~~(r)~~, and amendments thereto, the board shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

(w)(1) On and after July 1, 2012, for any inmate who is a sex offender, as defined in K.S.A. 22-4902, and amendments thereto, whenever the prisoner review board orders the parole of such inmate or establishes conditions for such inmate placed on postrelease supervision, such inmate shall agree in writing to not possess pornographic materials.

(A) As used in this subsection, "pornographic materials" means: any obscene material or performance depicting sexual conduct, sexual contact or a sexual performance; and any visual depiction of sexually explicit conduct.

(B) As used in this subsection, all other terms have the meanings provided by K.S.A. 2015 Supp. 21-5510, and amendments thereto.

(2) The provisions of this subsection shall be applied retroactively to every sex offender, as defined in K.S.A. 22-4902, and amendments

thereto, who is on parole or postrelease supervision on July 1, 2012. The prisoner review board shall obtain the written agreement required by this subsection from such offenders as soon as practicable.

Sec. 2. K.S.A. 2015 Supp. 22-3717 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 17, 2016.

CHAPTER 101

HOUSE BILL No. 2490

AN ACT concerning the department of agriculture; relating to the plant pest and agriculture commodity certification act; relating to certain definitions; relating to plant pest containment; weights and measures; charging for certain services; unlawful acts; technical representation; amending K.S.A. 2015 Supp. 2-2113, 2-2114, 2-2116, 2-2117, 83-214, 83-219 and 83-302 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 2-2113 is hereby amended to read as follows: 2-2113. As used in this act:

(a) “Plant pests” ~~include~~ *includes* any stage of development of any insect, nematode, arachnid, or any other invertebrate animal, or any bacteria, fungus, virus, weed or any other parasitic plant or microorganism, or any toxicant, which can injure plants or plant products, or which can cause a threat to public health.

(b) “Secretary” means the secretary of the Kansas department of agriculture, or the authorized representative of the secretary.

(c) “Plants” means trees, shrubs, grasses, vines, forage and cereal plants and all other plants *including growing crops*; cuttings, grafts, scions, buds and all other parts of plants.

(d) “Plant products” means fruit, vegetables, roots, bulbs, seeds, wood, lumber, grains and all other plant products.

(e) “Location” means any grounds or premises on or in which live plants are propagated, or grown, or from which live plants are removed for sale, or any grounds or premises on or in which live plants are being fumigated, treated, packed, stored or offered for sale.

(f) “Live plant dealer” means any person, unless excluded by rules and regulations adopted hereunder, who engages in business in the following manner:

- (1) Grows live plants for sale or distribution;
- (2) buys or obtains live plants for the purpose of reselling or reshipping within this state;
- (3) plants, transplants or moves live plants from place to place within

the state with the intent to plant such live plants for others and receives compensation for the live plants, for the planting of such live plants or for both live plants and plantings; or

(4) gives live plants as a premium or for advertising purposes.

(g) “Person” means a corporation, company, society, association, partnership, governmental agency and any individual or combination of individuals.

(h) “Permit” means a document issued or authorized by the secretary to provide for the movement of regulated articles to restricted destinations for limited handling, utilization or processing.

(i) “Host” means any plant or plant product upon which a plant pest is dependent for completion of any portion of its life cycle.

(j) “Regulated article” means any host or any article of any character as described in a quarantine or regulation carrying or being capable of carrying the plant pest against which the quarantine or regulation is directed.

(k) “Live plant” means any living plant, cultivated or wild, or any part thereof that can be planted or propagated unless specifically exempted by the rules or regulations of the secretary.

(l) “Quarantine pest” means a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.

(m) “Regulated nonquarantine pest” means a nonquarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated.

(n) “Official control” means the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated nonquarantine pest.

(o) “Regulated area” means an area into which, within which or from which plants, plant products and other regulated articles are subjected to phytosanitary regulations or procedures in order to prevent the introduction or spread of quarantine pests or to limit the economic impact of regulated nonquarantine pests.

(p) “Bee” means a honey-producing insect of the genus *Apis* including all life stages of the insect.

(q) “Beekeeping equipment” means all hives, supers, frames or other devices used in the rearing or manipulation of bees or their brood.

(r) “*Toxicant*” means any chemical, including an agricultural chemical as defined in K.S.A. 2-2202, and amendments thereto, or any biological substance which, if present in unsafe levels, can render a plant or plant product unsafe for human or animal consumption.

Sec. 2. K.S.A. 2015 Supp. 2-2114 is hereby amended to read as fol-

laws: 2-2114. The secretary, either independently, or in cooperation with counties, cities, other political subdivisions of the state, federal agencies, agencies of other states or private entities may enter into contracts and agreements and may carry out official control operations or measures to locate, and to suppress, control, eradicate, prevent, *contain* or retard the spread of, any plant pests.

Sec. 3. K.S.A. 2015 Supp. 2-2116 is hereby amended to read as follows: 2-2116. Wherever the secretary finds a plant, plant product or other regulated article that is infested by a plant pest or finds that a plant pest exists on any premises in this state or is in transit in this state, the secretary may:

(a) Upon giving notice to the person in possession thereof, or agent of such person, seize, quarantine, treat or otherwise dispose of such plant pest in such manner as the secretary deems necessary to suppress, control, eradicate, prevent, *contain* or retard the spread of such plant pest;

(b) order such person in possession thereof, or agent of such person to so treat or otherwise dispose of such plant pest. If such person fails to comply with such order, the secretary may treat or otherwise dispose of such plant pest; or

(c) if such person is a live plant dealer, after notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act, the secretary may assess against such live plant dealer any reasonable expense incurred by the secretary in treating or otherwise disposing of such plant pest.

Sec. 4. K.S.A. 2015 Supp. 2-2117 is hereby amended to read as follows: 2-2117. The secretary is authorized to quarantine this state or any portion thereof when the secretary determines that such action is necessary to prevent or retard the spread of a plant pest *or to contain a plant pest for the protection of the public health* and to quarantine any other state or portion thereof whenever the secretary determines that a plant pest exists therein and that such action is necessary to prevent or retard its spread, *movement or transportation* into this state. Before promulgating the determination that a quarantine is necessary, the secretary, after providing due notice to interested parties, shall hold a public hearing at which any interested party may appear and be heard either in person or by attorney. The secretary may impose a temporary quarantine for a period not to exceed 90 days during which time a public hearing, as provided in this section, shall be held if it appears that a quarantine for more than the 90-day period will be necessary to prevent, *contain* or retard the spread of the plant pest. The secretary may limit the application of the quarantine to the infested portion of the quarantined area and appropriate environs, to be known as the regulated area, and, without further hearing, may extend the regulated area to include additional portions of the quarantined area. Following the establishment of the quarantine, no

person shall move the plant pest against which the quarantine is established or move any regulated article described in the quarantine, within, from, into or through this state contrary to the quarantine promulgated by the secretary. The quarantine may restrict the movement of the plant pest and any regulated articles from the quarantined or regulated area in this state into or through other parts of this state or other states and from the quarantined or regulated area in other states into or through this state. The secretary shall impose such inspection, disinfection, certification or permit and other requirements as the secretary shall deem necessary to effectuate the purposes of this act. The secretary is authorized to establish regulations defining pest freedom standards for live plants, plants and plant products or other regulated articles that pose risk of moving plant pests that may cause economic or environmental harm.

Sec. 5. K.S.A. 2015 Supp. 83-214 is hereby amended to read as follows: 83-214. (a) The secretary may try and prove weights, measures, balances and other measuring devices on request for any person, corporation or institution, and when the same are found or made to conform to the state standards, and otherwise fulfill such reasonable requirements as the secretary may make, the secretary, or an authorized representative of the secretary, may seal the same with a seal which is kept for that purpose.

(b) (1) Except as otherwise provided by statute, the secretary, or the authorized representative of the secretary, may charge for services provided by the department and other necessary and incidental expenses or both incurred in conjunction with the testing and proving of weights, measures and other devices at a rate per hour or fraction thereof and other necessary and incidental expenses which are fixed by rules and regulations adopted by the secretary of agriculture, except that (1) the charges for services provided by the metrology lab shall not exceed \$50 per hour or fraction thereof, and (2) in the case of the head house scale program such charges shall not exceed \$100 per hour or fraction thereof. *rates prescribed pursuant to this section. An in-state rate shall be charged to licensed service companies that have licensed technical representatives performing service work in Kansas. An additional fee for adjustment of any weight, measure or other device may be assessed. The rates charged by the secretary shall be as follows:*

Category	In-State rate	In-State rate for quantities of 10 or more of 10 or more	In-State rate for quantities of 100 or more	Standard rate	Standard rate for quantities of 10 or more	Adjustment fee per piece
Large Mass ($\leq 1,250$ lbs through ≥ 100 lbs, 500 kg through ≥ 50 kg)	\$16	\$8	\$6	\$20	\$10	\$5
Medium Mass (< 100 lbs through ≥ 20 lbs, < 50 kg through $10 \geq$ kg)	\$6	\$4	\$2	\$10	\$5	\$5
Small Mass (< 20 lbs through ≥ 0.001 lbs, < 10 kg through 1 mg)	\$6	\$4	\$2	\$10	\$5	\$5
Small Mass Set (≤ 10 lbs through ≥ 0.001 lbs, ≤ 5 kg through ≥ 20 mg)	\$35	\$35		\$45	\$45	\$5
Precision Mass (1,000 lbs through 0.001 lbs, 30 kg through 1 mg) ASTM 2, 3, 4, 5	\$20	\$20		\$30	\$30	\$40
Precision Mass Echelon 1 (30 kg through 1 mg) ASTM 1 or ASTM 0	\$40	\$40		\$60	\$60	
Extra Large Healdtouse Weights (3,000 lbs through $> 1,250$ lbs)	\$40	\$40		\$50	\$50	\$5
Weight Carts (6,000 lbs through 2,000 lbs)	\$80	\$80		\$100	\$100	\$25
Weight Carts (8,000 lbs)	\$200	\$200		\$220	\$220	\$25
Large Volume (100 gal or less)	\$85	\$85		\$100	\$100	\$25
Large Volume (greater than 100 gal and less than or equal to 200 gal.)	\$185	\$185		\$200	\$200	\$25
Large Volume (greater than 200 gal and less than or equal to 500 gal.)	\$285	\$285		\$300	\$300	\$25
Large Volume (greater than 500 gal.)	\$485	\$485		\$500	\$500	\$25
Small Volume (5 gal)	\$50	\$50		\$70	\$70	\$10
Gravimetric Volume (5 gal)	\$180	\$180		\$200	\$200	
Thermometry (-35°C through 150°C) (Based on a per point calibration)	\$90	\$75		\$110	\$90	

(2) *The secretary may charge the following additional fees for preparing items for shipment:*

<i>Category</i>	<i>Rate</i>
<i>Large Mass ($\leq 1,250$ lbs through ≥ 100 lbs, 500 kg through $50 \geq$ kg)</i>	<i>\$20</i>
<i>Medium Mass (< 100 lbs through ≥ 20 lbs, < 50 kg through ≥ 10 kg)</i>	<i>\$30</i>
<i>Small Mass (< 20 lbs through ≥ 0.001 lbs, < 10 kg through 1 mg)</i>	<i>\$20</i>
<i>Small Mass Set (≤ 10 lbs through ≥ 0.001 lbs, ≤ 5 kg through ≥ 1 mg)</i>	<i>\$20</i>
<i>Precision Mass (1,000 lbs through 0.001 lbs, 30 kg through 1 mg)</i>	<i>\$10</i>
<i>Precision Mass Set (1,000 lbs through 0.001 lbs, 30 kg through 1 mg)</i>	<i>\$20</i>
<i>Extra Large Headhouse Weights (3,000 lbs through $> 1,250$ lbs)</i>	<i>\$40</i>
<i>Weight Carts (8,000 lbs through 2,000 lbs)</i>	<i>\$100</i>
<i>Large Volume (1,000 gal through 20 gal)</i>	<i>\$100</i>
<i>Large Volume LPG (1,000 gal through 20 gal)</i>	<i>\$100</i>
<i>Small Volume (5 gal)</i>	<i>\$20</i>
<i>Gravimetric Volume (5 gal)</i>	<i>\$20</i>
<i>Thermometry (-35°C through 150°C) (Based on a 2 point calibration)</i>	<i>\$20</i>

(3) *For any service provided pursuant to this subsection that is not listed in the fee schedules in subsections (b)(1) and (b)(2), the secretary shall determine that fee to be charged.*

(4) *For any service provided pursuant to this subsection, the secretary may charge a minimum fee of \$50 per invoice.* The secretary may charge for subsistence and transportation of personnel and equipment to such point and return. Such charges shall be set by rules and regulations adopted by the secretary of agriculture.

(5) The secretary may fix the manner in which any charges made pursuant to this subsection are collected.

(c) The secretary shall remit all moneys received under subsection (b) 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 weights and measures fee fund which is hereby created. All expenditures from the weights and measures fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person designated by the secretary.

(d) Except as provided in K.S.A. 83-301 through 83-311, and amend-

ments thereto, nothing in article 2 of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, shall prohibit the owner of a weighing or measuring device or the owner's employee or agent from servicing or repairing such device. However, if such device is found out of tolerance and is rejected by the department of agriculture, the owner is responsible for repairing the device within the time specified on the rejection tag and notifying the department when the device is repaired and in operation. The owner shall pay a fee commensurate with the expense incurred by the secretary in performing the follow-up inspections or tests.

Sec. 6. K.S.A. 2015 Supp. 83-219 is hereby amended to read as follows: 83-219. (a) It shall be unlawful for any person:

(1) To offer or expose for sale, or to sell ~~or otherwise dispose of~~ any weight, measure or weighing or measuring device that does not meet the tolerances and specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or which has been rejected without first obtaining the written authorization of the secretary;

(2) to use ~~or possess~~ a weight, measure or weighing or measuring device ~~that is used for or intended to be used~~ for commercial purposes which does not meet the tolerance and specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or that does not conform to the standard authorized by the secretary for determining the quantity of any commodity or article of merchandise, for the purpose of:

(A) Buying or selling any commodity or article of merchandise;

(B) computation of any charge for services rendered on the basis of weight or measure;

(C) determining weight or measure, either when a charge is made for such determination or where no charge is made for use of such weight, measure, weighing or measuring device;

(3) except as allowed in K.S.A. 83-225, and amendments thereto, to break or remove any tag, mark or seal placed on any weighing or measuring device by the secretary or a county or city inspector of weights and measures, without specific written authorization from the proper authority or to use a weighing or measuring device after the lapse of the authorized period following the placing of a rejection tag thereon by the secretary, unless further extension of time for any repair purposes is first obtained from the secretary;

(4) to sell, offer or expose for sale, less than the represented quantity of any commodity, thing or service;

(5) to take or attempt to take more of the represented quantity of any commodity, thing or service when the buyer furnishes the weight, measure or weighing or measuring device by which the amount of any commodity, thing or service is determined;

(6) to keep for the purpose of sale, or to offer or expose for sale, or

to sell any commodity in a manner contrary to the law or contrary to any rule and regulation;

(7) to use in retail trade, except in preparation of packages of merchandise put up in advance of sale, a weighing or measuring device that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from a reasonable customer position;

(8) to violate any of the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder, for which a specific penalty is not provided;

(9) to sell or offer for sale, or use or possess for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure;

(10) to dispose of any rejected weight or measure in a manner contrary to law or rules and regulations;

(11) to expose for sale, offer for sale or sell any commodity in package form, without it being so wrapped, or the container so made, formed or filled, that it will not mislead the purchaser as to the quantity of the contents of the package;

(12) to expose for sale, offer for sale or sell any commodity in any container where the contents of the container fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the secretary;

(13) to misrepresent the price of any commodity or service sold, offered, exposed or advertised for sale by weight, measure or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive any person;

(14) to misrepresent, or represent in a manner calculated or tending to mislead or deceive an actual or prospective purchaser, the price of an item offered, exposed or advertised for sale at retail;

(15) to compute or attempt to compute at the time of sale of an item, a value which is not a true extension of a price per unit which is then advertised, posted or quoted;

(16) to charge or attempt to charge, at the time of the sale of an item or commodity, a value which is more than the price which is advertised, posted or quoted;

(17) to alter a weight certificate, use or attempt to use any such certificate for any load or part of a load or for articles or things other than for which the certificate is given, or, after weighing and before the delivery of any articles or things so weighted, alter or diminish the quantity thereof;

(18) to hinder or obstruct in any way the secretary or any of the secretary's authorized agents in the performance of the secretary's official duties under chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;

(19) to fail to follow the standards and requirements established in K.S.A. 83-202, and amendments thereto, or any rules and regulations adopted thereunder;

(20) to fail to pay all fees and penalties as prescribed by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder;

(21) to fail to keep or make available for examination or provide to the secretary all inspection reports, test reports and any other service reports or other information on any device owned or operated by the owner or any agent or employee of the owner and other information necessary for the enforcement of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder, and as required by the secretary;

(22) to fail to have any commercial weight, measure or weighing and measuring device tested as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;

(23) to sell or offer or expose for sale liquefied petroleum gas in packages or containers which do not bear a statement as to tare and net weight as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder, or packages or containers which bear a false statement as to weights;

(24) to sell, use, remove, or otherwise dispose of, or fail to remove from the premises specified, any weighing or measuring device or package or commodity contrary to the terms of any order issued by the secretary;

(25) to violate any order issued by the secretary pursuant to chapter 83 of the Kansas Statutes Annotated, and amendments thereto; and

(26) to prohibit a buyer or seller from observing the weighing or operation of any transaction to which such buyer or seller is a party.

(b) It shall be unlawful for any service company or technical representative to *knowingly*:

(1) Act as or represent such person's self to be a technical representative without having a valid license issued by the Kansas department of agriculture;

(2) certify a device as correct unless the device meets the tolerances and specifications as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;

(3) hinder or obstruct in any way the secretary in the performance of the secretary's official duties under chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;

(4) fail to follow the standards and requirements set forth in K.S.A. 83-202, and amendments thereto, or any rules and regulations adopted thereunder;

(5) fail to complete the testing or placing-in-service report in its entirety and to report the accurate description of the parts replaced, adjusted, reconditioned or work performed;

(6) file a false or fraudulent service company or technical representative application or reports to the secretary;

(7) fail to pay all fees and penalties as prescribed by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder;

(8) fail to keep or make available for examination in an accessible and legible manner or provide to the secretary in a legible manner all inspection reports, test reports, and any other service or report work information on any device which the service company or an agent or employee performed work on and other information necessary for the enforcement of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder; or

(9) sell, offer or expose for sale a weighing or measuring device intended to be used commercially, which is not traceable to a national type evaluation program certificate of conformance.

(c) For the purpose of ~~paragraph~~ subsection (a)(4), the selling and delivery of a stated quantity of any commodity shall be prima facie evidence of representations on the part of the seller that the quantity sold and delivered was the quantity bought by the purchaser.

(d) Violation of this section shall be deemed a deceptive act and practice as defined by K.S.A. 50-626, and amendments thereto. Violations of the provisions of K.S.A. 83-219, and amendments thereto, may be enforced by the secretary under the administrative provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or by the attorney general or a county or district attorney under the Kansas consumer protection act.

Sec. 7. K.S.A. 2015 Supp. 83-302 is hereby amended to read as follows: 83-302. (a) (1) Each person, other than an authorized representative of the secretary or an authorized representative of a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate and perform testing and other services as a company in Kansas shall apply to the secretary for a service company license, on a form to be supplied by the secretary, and shall obtain such license from the secretary before operating and performing testing or other services as a service company. Each service company shall obtain a license for each place of business maintained in Kansas and shall pay a license application fee of \$50, ~~or commencing July 1, 2002, and ending June 30, 2010, a fee of \$100 and thereafter an annual license renewal application fee of \$50, or commencing July 1, 2002, and ending June 30, 2010, a fee of \$100 for each place of business.~~

(2) *Beginning with the 2017 license year, the secretary may, by order, set the license application fee, not to exceed the maximum fee stated herein:*

(A) *Commencing July 1, 2017, the license application fee shall not exceed \$100.*

(B) *Commencing July 1, 2019, the license application fee shall not exceed \$110.*

(C) *Commencing July 1, 2021, the license application fee shall not exceed \$120.*

(D) *Commencing July 1, 2023, and thereafter, the license application fee shall not exceed \$130.*

(3) Each service company license shall expire on June 30 following issuance, shall be void unless renewed prior to the expiration and shall not be transferable. *The license renewal fee shall be equal to the license application fee as provided in this section for each place of business.*

(b) If any service company maintains any out-of-state places of business which the company operates in serving Kansas patrons, the service company seeking to obtain or renew a license under this section shall list in the application such places of business and the firm names under which the company operates at each such place of business. If any out-of-state place of business is established by a service company after being licensed under this section, the licensee shall supply such information to the secretary before any work is performed in Kansas from such out-of-state location. Each nonresident service company shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any liabilities arising from operations thereunder. Each nonresident service company which maintains no established place of business in Kansas shall obtain a license under this section for each out-of-state place of business and shall list on the application the firm name or names for each place of business from which the service company intends to operate.

(c) (1) Each technical representative shall be licensed annually by the secretary. *Except as provided in paragraph (2), each technical representative shall be required to attend continuing education seminars on an annual basis as required by rules and regulations adopted by the secretary and to pass a reasonable examination prescribed by the secretary each year prior to being licensed. The Kansas department of agriculture shall be authorized to charge a fee to the attendees of the continuing education seminars sponsored by the agency. The amount charged shall be no more than is necessary to cover the expenses incurred in providing the seminar.* Each technical representative's license shall expire on June 30 following the issuance of the license and shall be void unless renewed prior to the expiration.

(2) *Beginning on July 1, 2017, each technical representative who has*

had 10 years of continuous licensure with no administrative enforcement action adjudicated against such technical representative during such 10-year period shall be eligible to obtain a three-year license. The secretary shall implement, by order, the fee for such three-year license, which shall be an amount not to exceed \$300. Each technical representative holding a three-year license shall be required to complete continuing education as described in subsection (c)(1) at a frequency not to exceed once per three-year period. The secretary may promulgate rules and regulations to require any technical representative who has been adjudicated in violation of this act or any rules and regulations promulgated by the secretary, to seek renewal of a license on an annual basis and may establish criteria for reinstatement of eligibility for a three-year license.

(3) *The department of agriculture is authorized to charge a fee to the attendees of continuing education seminars sponsored by the department. The amount of such fee shall be no more than is necessary to cover the expenses incurred by providing the seminar.*

(d) No service company license may be issued or renewed under this section until the applicant's weights or measures, or both have been tested for accuracy and sealed by the secretary. The secretary is authorized to accept a certification of the accuracy of the applicant's weights or measures issued by the national institute of standards and technology or by a weights and measures laboratory certified by the national institute of standards and technology in lieu of a test by the secretary, if such certificate shows that the weights or measures have been tested within the last 365 days preceding the license application.

(e) The secretary 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 weights and measures fee fund.

Sec. 8. K.S.A. 2015 Supp. 2-2113, 2-2114, 2-2116, 2-2117, 83-214, 83-219 and 83-302 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 17, 2016.

CHAPTER 102

SENATE BILL No. 418
(Amends Chapter 46)

AN ACT concerning children and minors; enacting the host families act; relating to children in need of care and juvenile offenders; amending K.S.A. 2015 Supp. 23-3203, 38-2201, 38-2202, 38-2210, 38-2211, 38-2231, 38-2263, 38-2264, 38-2265, 38-2287, 38-2302, as amended by section 29 of 2016 Senate Bill No. 367, 38-2310, 38-2365, 65-535, 75-7023 and 75-7023, as amended by section 63 of 2016 Senate Bill No. 367, repealing the existing sections; also repealing K.S.A. 2015 Supp. 38-2310a and 75-7023, as amended by section 22 of this act.

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

New Section 1. Sections 1 through 5, and amendments thereto, shall be known and may be cited as the host families act.

New Sec. 2. As used in the host families act:

(a) “Charitable organization” has the same meaning as defined in K.S.A. 17-1760, and amendments thereto.

(b) “Child placement agency” means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care and licensed by the state of Kansas pursuant to K.S.A. 65-501, and amendments thereto.

(c) “Host family” means an individual or family who provides temporary care under this act.

(d) “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.

(e) “Serving parent” means a parent who is a member of the reserves of the army, navy, air force, marine corps or coast guard of the United States or the commissioned corps of the national oceanic and atmospheric administration or the public health service of the United States department of health and human services detailed by proper authority for duty with the army or navy of the United States, or who is required to enter or serve in the active military service of the United States under a call or order of the president of the United States or to serve on state active duty.

New Sec. 3. (a) A child placement agency, or other Kansas charitable organization working under an agreement with a child placement agency, may establish a program in which it coordinates with private organizations to provide temporary care of children by placing a child with a host family.

(b) (1) A program established pursuant to subsection (a) shall include screening and background checks for potential host families. Such screening and background checks shall be the same as the screening and background checks required for obtaining and maintaining a license to operate a family foster home pursuant to rules and regulations adopted by the secretary for children and families.

(2) A host family shall not receive payment other than reimbursement for actual expenses of providing temporary care for the child.

(c) Any placement of a child into a program established pursuant to subsection (a):

(1) Shall be voluntary and shall not be considered an out-of-home placement by the state;

(2) shall not supersede any order under the revised Kansas code for care of children or any other court order; and

(3) shall not preclude any investigation of suspected abuse or neglect.

(d)(1) A parent may place a child into a program established pursuant to subsection (a) by executing a power of attorney delegating to a host family any of the powers regarding the care and custody of the child, except the power to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child. Such placement of a child shall not be allowed without the consent of all individuals who have legal custody of the child.

(2)(A) A power of attorney executed pursuant to this subsection shall not exceed one year in duration, except that such power of attorney may be renewed for one additional year.

(B) A serving parent may execute a power of attorney pursuant to this section for a duration longer than one year if on active duty service, and the duration of such power of attorney shall not exceed the term of active duty service plus 30 days.

(3) A delegation of powers pursuant to this subsection shall not: (A) Deprive any parent of any parental or legal authority regarding the care and custody of the child; (B) deprive any non-delegating parent of any parental or legal authority regarding the child, if such parent's rights have not otherwise been terminated or relinquished as provided by law; or (C) affect any parental or legal authority otherwise limited by a court order.

(4) A parent executing a power of attorney pursuant to this subsection shall have the authority to revoke or withdraw the power of attorney at any time. If a parent withdraws or revokes the power of attorney, the child shall be returned to the custody of the parent as soon as reasonably possible.

(5) The execution of a power of attorney by a parent pursuant to this subsection shall not be evidence of abandonment, abuse or neglect as defined in K.S.A. 2015 Supp. 38-2202, and amendments thereto.

(6) A power of attorney executed pursuant to this subsection shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council. The judicial council shall develop a form for use under this subsection.

New Sec. 4. During any child protective investigation by the Kansas department for children and families that does not result in an out-of-

home placement due to abuse of a child, the department is authorized and encouraged to provide information to the parent or custodian about community service programs that provide respite care, voluntary guardianship or other support services for families in crisis, including organizations that operate programs authorized under section 3, and amendments thereto. In providing information, the department is authorized to exercise its discretion in recommending programs, organizations and resources to the parent or custodian.

New Sec. 5. The Kansas department for children and families is hereby authorized to work with families who are in financial distress, unemployed, homeless or experiencing other family crises by detailing community resources available to such families in the community, including, but not limited to, respite care, voluntary guardianship under the host families act and information regarding child placement agencies and other charitable organizations that operate programs authorized under section 3, and amendments thereto.

New Sec. 6. (a) Immediately after receiving information that a child has been identified as a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child, and in no case later than 24 hours after receiving such information, the secretary shall report such information to law enforcement agencies of jurisdiction.

(b) Immediately after receiving information that a child in the custody of the secretary is missing, and in no case later than 24 hours after receiving such information, the secretary shall report such information to the national center for missing and exploited children and the law enforcement agency in the jurisdiction from which the child is missing. The law enforcement agency shall enter such information into the missing person system of the national crime information center and the missing and unidentified person system of the Kansas bureau of investigation, in accordance with K.S.A. 75-712c, and amendments thereto.

(c) This section shall be part of and supplemental to the revised Kansas code for care of children.

Sec. 7. K.S.A. 2015 Supp. 23-3203 is hereby amended to read as follows: 23-3203. (a) In determining the issue of ~~child~~ legal custody, residency and parenting time of a child, the court shall consider all relevant factors, including, but not limited to:

- (~~a~~) (1) Each parent's role and involvement with the minor child before and after separation;
- (~~b~~) (2) the desires of the child's parents as to custody or residency;
- (~~c~~) (3) the desires of a child of sufficient age and maturity as to the child's custody or residency;
- (~~d~~) (4) the age of the child;
- (~~e~~) (5) the emotional and physical needs of the child;
- (~~f~~) (6) the interaction and interrelationship of the child with parents,

siblings and any other person who may significantly affect the child's best interests;

~~(g)~~ (7) the child's adjustment to the child's home, school and community;

~~(h)~~ (8) the willingness and ability of each parent to respect and appreciate the bond between the child and the other parent and to allow for a continuing relationship between the child and the other parent;

~~(i)~~ (9) evidence of spousal abuse, either emotional or physical;

~~(j)~~ (10) the ability of the parties to communicate, cooperate and manage parental duties;

~~(k)~~ (11) the school activity schedule of the child;

~~(l)~~ (12) the work schedule of the parties;

~~(m)~~ (13) the location of the parties' residences and places of employment;

~~(n)~~ (14) the location of the child's school;

~~(o)~~ (15) whether a parent is subject to the registration requirements of the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, or any similar act in any other state, or under military or federal law;

~~(p)~~ (16) whether a parent has been convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2015 Supp. 21-5602, and amendments thereto;

~~(q)~~ (17) whether a parent is residing with an individual who is subject to registration requirements of the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, or any similar act in any other state, or under military or federal law; and

~~(r)~~ (18) whether a parent is residing with an individual who has been convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2015 Supp. 21-5602, and amendments thereto.

(b) To aid in determining the issue of legal custody, residency and parenting time of a child, the court may order a parent to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and may order such parent to follow all recommendations made by such program.

Sec. 8. K.S.A. 2015 Supp. 38-2201 is hereby amended to read as follows: 38-2201. K.S.A. 2015 Supp. 38-2201 through 38-2283, and amendments thereto, shall be known as and may be cited as the revised Kansas code for care of children.

(a) Proceedings pursuant to this code shall be civil in nature and all proceedings, orders, judgments and decrees shall be deemed to be pursuant to the parental power of the state. Any orders pursuant to this code shall take precedence over any similar order 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, article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators, or article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, until jurisdiction under this code is terminated.

(b) The code shall be liberally construed to carry out the policies of the state which are to:

(1) Consider the safety and welfare of a child to be paramount in all proceedings under the code;

(2) provide that each child who comes within the provisions of the code shall receive the care, custody, guidance control and discipline that will best serve the child's welfare and the interests of the state, preferably in the child's home and recognizing that the child's relationship with such child's family is important to the child's well being;

(3) make the ongoing physical, mental and emotional needs of the child decisive considerations in proceedings under this code;

(4) acknowledge that the time perception of a child differs from that of an adult and to dispose of all proceedings under this code without unnecessary delay;

(5) encourage the reporting of suspected child abuse and neglect;

(6) investigate reports of suspected child abuse and neglect thoroughly and promptly;

(7) provide for the protection of children who have been subject to physical, mental or emotional abuse or neglect or sexual abuse;

(8) provide preventative and rehabilitative services, when appropriate, to abused and neglected children and their families so, if possible, the families can remain together without further threat to the children;

(9) provide stability in the life of a child who must be removed from the home of a parent; and

(10) place children in permanent family settings, in absence of compelling reasons to the contrary.

(c) Nothing in this code shall be construed to permit discrimination on the basis of disability.

(1) The disability of a parent shall not constitute a basis for a determination that a child is a child in need of care, for the removal of custody of a child from the parent, or for the termination of parental rights without a specific showing that there is a causal relation between the disability and harm to the child.

(2) In cases involving a parent with a disability, determinations made under this code shall consider the availability and use of accommodations for the disability, including adaptive equipment and support services.

(d) (1) *Nothing in this code shall be construed to permit any person to compel a parent to medicate a child if the parent is acting in accordance*

with medical advice from a physician. The actions of a parent in such circumstances shall not constitute a basis for a determination that a child is a child in need of care, for the removal of custody of a child from the parent, or for the termination of parental rights without a specific showing that there is a causal relation between the actions and harm to the child.

(2) *As used in this subsection, “physician” means a person licensed to practice medicine and surgery by the state board of healing arts or by an equivalent licensing board or entity in any state.*

Sec. 9. 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; *or*

(14) *has been subjected to an act which would constitute 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 has committed an act which, if committed by an adult, would constitute selling sexual relations, as defined by K.S.A. 2015 Supp. 21-6419, and amendments thereto.*

(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) *"Reasonable and prudent parenting standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural and social activities.*

~~(aa)~~ (bb) "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.

(cc) *“Runaway” means a child who is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian.*

~~(bb)~~ (dd) *“Secretary” means the secretary of the department for children and families or the secretary's designee.*

~~(cc)~~ (ee) *“Secure facility” means a facility, other than a staff secure 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)~~ (ff) *“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, but is not limited to, allowing, permitting or encouraging a child to engage in the sale of sexual relations or commercial sexual exploitation of a child, or to:*

(1) *Be photographed, filmed or depicted in pornographic material. Sexual abuse also shall include allowing, permitting or encouraging a child to engage in; or*

(2) *be subjected to 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, or be subjected to an act which would constitute conduct proscribed by article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2015 Supp. 21-6419 or 21-6422, and amendments thereto.*

~~(cc)~~ (gg) *“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)~~ (hh) *“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)~~ (ii) *“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)~~ (jj) “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. 10. K.S.A. 2015 Supp. 38-2210 is hereby amended to read as follows: 38-2210. To facilitate investigation and ensure the provision of necessary services to children who may be in need of care and such children’s families, the following persons and entities with responsibilities concerning a child who is alleged or adjudicated to be in need of care shall freely exchange information:

- (a) The secretary.
- (b) ~~The commissioner of juvenile justice~~ *secretary of corrections*.
- (c) The law enforcement agency receiving such report.
- (d) Members of a court appointed multidisciplinary team.
- (e) An entity mandated by federal law or an agency of any state authorized to receive and investigate reports of a child known or suspected to be in need of care.
- (f) A military enclave or Indian tribal organization authorized to receive and investigate reports of a child known or suspected to be in need of care.
- (g) A county or district attorney with responsibility for filing a petition pursuant to K.S.A. 2015 Supp. 38-2214, and amendments thereto.
- (h) A court services officer who has taken a child into custody pursuant to K.S.A. 2015 Supp. 38-2231, and amendments thereto.
- (i) An intake and assessment worker.
- (j) Any community corrections program which has the child under court ordered supervision.
- (k) The department of health and environment or persons authorized by the department of health and environment pursuant to K.S.A. 65-512, and amendments thereto, for the purpose of carrying out responsibilities relating to licensure or registration of child care providers as required by article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.
- (l) *The interstate compact for juveniles compact administrator for the purpose of carrying out the responsibilities related to the interstate compact for juveniles.*

Sec. 11. K.S.A. 2015 Supp. 38-2211 is hereby amended to read as follows: 38-2211. (a) *Access to the official file*. The following persons or

entities shall have access to the official file of a child in need of care proceeding pursuant to this code:

(1) The court having jurisdiction over the proceedings, including the presiding judge and any court personnel designated by the judge.

(2) The parties to the proceedings and their attorneys.

(3) The guardian ad litem for a child who is the subject of the proceeding.

(4) A court appointed special advocate for a child who is the subject of the proceeding or a paid staff member of a court appointed special advocate program.

(5) Any individual, or any public or private agency or institution, having custody of the child under court order or providing educational, medical or mental health services to the child or any placement provider or potential placement provider as determined by the secretary or court services officer.

(6) A citizen review board.

(7) ~~The commissioner of juvenile justice~~ *secretary of corrections* or any agents designated by the ~~commissioner~~ *secretary of corrections*.

(8) *Any county or district attorney from another jurisdiction with a pending child in need of care matter regarding any of the same parties.*

(9) Any other person when authorized by a court order, subject to any conditions imposed by the order.

~~(9)~~—(10) The commission on judicial performance in the discharge of the commission's duties pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto.

(b) *Access to the social file.* The following persons or entities shall have access to the social file of a child in need of care proceeding pursuant to this code:

(1) The court having jurisdiction over the proceeding, including the presiding judge and any court personnel designated by the judge.

(2) The attorney for a party to the proceeding or the person or persons designated by an Indian tribe that is a party.

(3) The guardian ad litem for a child who is the subject of the proceeding.

(4) A court appointed special advocate for a child who is the subject of the proceeding or a paid staff member of a court appointed special advocate program.

(5) A citizen review board.

(6) The secretary.

(7) ~~The commissioner of juvenile justice~~ *secretary of corrections* or any agents designated by the ~~commissioner~~ *secretary of corrections*.

(8) *Any county or district attorney from another jurisdiction with a pending child in need of care matter regarding any of the same parties or interested parties.*

(9) Any other person when authorized by a court order, subject to any conditions imposed by the order.

(c) *Preservation of records.* The Kansas state historical society shall be allowed to take possession for preservation in the state archives of any court records related to proceedings under the Kansas code for care of children whenever such records otherwise would be destroyed. No such records in the custody of the Kansas state historical society shall be disclosed directly or indirectly to anyone for 70 years after creation of the records, except as provided in subsections (a) and (b). Pursuant to subsections (a)(~~S~~(9) and (b)(~~S~~(9), a judge of the district court may allow inspection for research purposes of any court records in the custody of the Kansas state historical society related to proceedings under the Kansas code for care of children.

Sec. 12. K.S.A. 2015 Supp. 38-2231 is hereby amended to read as follows: 38-2231. (a) A law enforcement officer or court services officer shall take a child under 18 years of age into custody when:

(1) The law enforcement officer or court services officer has a court order commanding that the child be taken into custody as a child in need of care; or

(2) the law enforcement officer or court services officer has probable cause to believe that a court order commanding that the child be taken into custody as a child in need of care has been issued in this state or in another jurisdiction.

(b) A law enforcement officer shall take a child under 18 years of age into custody when the officer:

(1) Reasonably believes the child will be harmed if not immediately removed from the place or residence where the child has been found;

(2) has probable cause to believe that the child is *a runaway* or a missing person ~~and~~ or a verified missing person entry for the child can be found in the national crime information center missing person system; or

(3) reasonably believes the child is a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child.

(c) (1) If a person provides shelter to a child whom the person knows is a runaway, such person shall promptly report the child's location either to a law enforcement agency or to the child's parent or other custodian.

(2) If a person reports a runaway's location to a law enforcement agency pursuant to this section and a law enforcement officer of the agency has reasonable grounds to believe that it is in the child's best interests, the child may be allowed to remain in the place where shelter is being provided, subject to subsection (b), in the absence of a court order to the contrary. If the child is allowed to so remain, the law enforcement agency shall promptly notify the secretary of the child's location and circumstances.

(d) Except as provided in subsections (a) and (b), a law enforcement officer may temporarily detain and assume temporary custody of any child subject to compulsory school attendance, pursuant to K.S.A. 72-1111, and amendments thereto, during the hours school is actually in session and shall deliver the child pursuant to ~~subsection (g)~~ of K.S.A. 2015 Supp. 38-2232(g), and amendments thereto.

Sec. 13. K.S.A. 2015 Supp. 38-2263 is hereby amended to read as follows: 38-2263. (a) The goal of permanency planning is to assure, in so far as is possible, that children have permanency and stability in their living situations and that the continuity of family relationships and connections is preserved. In planning for permanency, the safety and well being of children shall be paramount.

(b) Whenever a child is subject to the jurisdiction of the court pursuant to the code, an initial permanency plan shall be developed for the child and submitted to the court within 30 days of the initial order of the court. If the child is in the custody of the secretary, or the secretary is providing services to the child, the secretary shall prepare the plan. Otherwise, the plan shall be prepared by the person who has custody or, if directed by the court, by a court services officer.

(c) A permanency plan is a written document prepared *in consultation with the child, if the child is 14 years of age or older and the child is able, and*, where possible, in consultation with the child's parents, and which:

(1) Describes the permanency goal which, if achieved, will most likely give the child 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 the child, the child's parents 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; and

(6) includes measurable objectives and time schedules for achieving the plan.

(d) In addition to the requirements of subsection (c), if the child is in an out of home placement, the permanency plan shall include:

(1) A plan for reintegration of the child's parent or parents or if reintegration is determined not to be a viable alternative, a statement for the basis of that conclusion and a plan for another permanent living arrangement;

(2) a description of the available placement alternatives;

(3) a justification for the placement selected, including a description of the safety and appropriateness of the placement; and

(4) a description of the programs and services which will help the child prepare to live independently as an adult.

(e) If there is a lack of agreement among persons necessary for the success of the permanency plan, the person or entity having custody of the child shall notify the court which shall set a hearing on the plan.

(f) A permanency plan may be amended at any time upon agreement of the plan participants. If a permanency plan requires amendment which changes the permanency goal, the person or entity having custody of the child shall notify the court which shall set a permanency hearing pursuant to K.S.A. 2015 Supp. 38-2264 and 38-2265, and amendments thereto.

Sec. 14. K.S.A. 2015 Supp. 38-2264 is hereby amended to read as follows: 38-2264. (a) A permanency hearing is a proceeding conducted by the court or by a citizen review board for the purpose of determining progress toward accomplishment of a permanency plan as established by K.S.A. 2015 Supp. 38-2263, and amendments thereto.

(b) The court or a citizen review board shall hear and the court shall determine whether and, if applicable, when the child will be:

(1) Reintegrated with the child's parents;

(2) placed for adoption;

(3) placed with a permanent custodian; or

(4) *if the child is 16 years of age or older and the secretary has documented compelling reasons why it would not be in the child's best interests for a placement in one of the placements pursuant to paragraphs (1), (2) or (3), placed in another planned permanent arrangement.*

(c) *At each permanency hearing, the court shall:*

(1) Enter a finding as to whether reasonable efforts have been made by appropriate public or private agencies to rehabilitate the family and achieve the permanency goal in place at the time of the hearing;

(2) *enter a finding as to whether the reasonable and prudent parenting standard has been met and whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities. The secretary shall report to the court the steps the secretary is taking to ensure that the child's foster family home or child care institution is following the reasonable and prudent parenting standard and that the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consultation with the child in an age-appropriate manner about the opportunities of the child to participate in the activities;*

(3) *if the child is 14 years of age or older, document the efforts made by the secretary to help the child prepare for the transition from custody to a successful adulthood. The secretary shall report to the court the programs and services that are being provided to the child which will help the child prepare for the transition from custody to a successful adulthood.*

(d) *The requirements of this subsection shall apply only if the per-*

manency goal in place at the time of the hearing is another planned permanent arrangement as described in subsection (b)(4). At each permanency hearing held with respect to the child, in addition to the requirements of subsection (c), the court shall:

(1) Ask the child, if the child is able, by attendance at the hearing or by report to the court, about the desired permanency outcome for the child;

(2) document the intensive, ongoing and, as of the date of the hearing, unsuccessful permanency efforts made by the secretary to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian or an adoptive parent. The secretary shall report to the court the intensive, ongoing and, as of the date of the hearing, unsuccessful efforts made by the secretary to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian or an adoptive parent, including efforts that utilize search technology, including social media, to find biological family members of the children; and

(3) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to return home, be placed for adoption, be placed with a legal guardian or be placed with a fit and willing relative.

~~(d)~~ *(e)* A permanency hearing shall be held within 12 months of the date the court authorized the child's removal from the home and not less frequently than every 12 months thereafter.

~~(e)~~ *(f)* If the court determines at any time other than during a permanency hearing that reintegration may not be a viable alternative for the child, a permanency hearing shall be held no later than 30 days following that determination.

~~(f)~~ *(g)* When the court finds that reintegration continues to be a viable alternative, the court shall determine whether and, if applicable, when the child will be returned to the parent. The court may rescind any of its prior dispositional orders and enter any dispositional order authorized by this code or may order that a new plan for the reintegration be prepared and submitted to the court. If reintegration cannot be accomplished as approved by the court, the court shall be informed and shall schedule a hearing pursuant to this section. No such hearing is required when the parents voluntarily relinquish parental rights or consent to appointment of a permanent custodian.

~~(g)~~ *(h)* If the court finds reintegration is no longer a viable alternative, the court shall consider whether: (1) The child is in a stable placement with a relative; (2) services set out in the case plan necessary for the safe return of the child have been made available to the parent with whom reintegration is planned; or (3) compelling reasons are documented in the case plan to support a finding that neither adoption nor appointment

of a permanent custodian are in the child's best interest. If reintegration is not a viable alternative and either adoption or appointment of a permanent custodian might be in the best interests of the child, the county or district attorney or the county or district attorney's designee shall file a motion to terminate parental rights or a motion to appoint a permanent custodian within 30 days and the court shall set a hearing on such motion within 90 days of the filing of such motion.

(H) (i) If the court enters an order terminating parental rights to a child, or an agency has accepted a relinquishment pursuant to K.S.A. 59-2124, and amendments thereto, the requirements for permanency hearings shall continue until an adoption or appointment of a permanent custodian has been accomplished. If the court determines that reasonable efforts or progress have not been made toward finding an adoptive placement or appointment of a permanent custodian or placement with a fit and willing relative, the court may rescind its prior orders and make others regarding custody and adoption that are appropriate under the circumstances. Reports of a proposed adoptive placement need not contain the identity of the proposed adoptive parents.

(H) (j) If permanency with one parent has been achieved without the termination of the other parent's rights, the court may, prior to dismissing the case, enter child custody orders, including residency and parenting time that the court determines to be in the best interests of the child. The court shall complete a parenting plan pursuant to K.S.A. 2015 Supp. 23-3213, and amendments thereto.

(1) Before entering a custody order under this subsection, the court shall inquire whether a custody order has been entered or is pending in a civil custody case by a court of competent jurisdiction within the state of Kansas.

(2) If a civil custody case has been filed or is pending, a certified copy of the custody, residency and parenting time orders shall be filed in the civil custody case. The court in the civil custody case may, after consultation with the court in the child in need of care case, enter an order declaring that the custody order in the child in need of care case shall become the custody order in the civil custody case.

(3) A district court, on its own motion or upon the motion of any party, may order the consolidation of the child in need of care case with any open civil custody case involving the child and both of the child's parents. Custody, residency and parenting time orders entered in consolidated child in need of care and civil custody cases take precedence over any previous orders affecting both parents and the child that were entered in the civil custody case regarding the same or related issues. Following entry of a custody order in a consolidated case, the court shall dismiss the child in need of care case and, if necessary, return the civil custody case to the original court having jurisdiction over it.

(4) If no civil custody case has been filed, the court may direct the

parties to file a civil custody case and to file the custody orders from the child in need of care case in that case. Costs of the civil custody case may be assessed to the parties.

(5) Nothing in this subsection shall operate to expand access to information that is confidential under K.S.A. 38-2209, and amendments thereto, and the confidentiality of such information shall be preserved in all filings in a civil custody case.

↕(k) When permanency has been achieved to the satisfaction of the court, the court shall enter an order closing the case.

Sec. 15. K.S.A. 2015 Supp. 38-2265 is hereby amended to read as follows: 38-2265. (a) (1) The court shall require notice of the time and place of the permanency hearing be given to the parties and interested parties. The notice shall state that the person receiving the notice shall have the right to be heard at the hearing.

(2) *If the child is 14 years of age or older, the court shall require notice of the time and place of the permanency hearing be given to the child. Such notice shall request the child's participation in the hearing by attendance or by report to the court.*

(b) The court shall require notice and the right to be heard to the following:

(1) The child's foster parent or parents or permanent custodian providing care for the child;

(2) preadoptive parents for the child, if any;

(3) the child's grandparents at their last known addresses or, if no grandparent is living or if no living grandparent's address is known, to the closest relative of each of the child's parents whose address is known;

(4) the person having custody of the child; and

(5) upon request, by any person having close emotional ties with the child and who is deemed by the court to be essential to the deliberations before the court.

(c) The notices required by ~~this~~ subsection (b) shall be given by first class mail, not less than 10 business days before the hearing.

(d) Individuals receiving notice pursuant to subsection (b) shall not be made a party or interested party to the action solely on the basis of this notice and the right to be heard. The right to be heard shall be at a time and in a manner determined by the court and does not confer an entitlement to appear in person at government expense.

(e) The provisions of this section shall not require additional notice to any person otherwise receiving notice of the hearing pursuant to K.S.A. 2015 Supp. 38-2239, and amendments thereto.

Sec. 16. K.S.A. 2015 Supp. 38-2287 is hereby amended to read as follows: 38-2287. (a) Whenever a child is in custody, as defined in K.S.A. 2015 Supp. 38-2202, and amendments thereto, and *there is reason to believe* such child has been subjected to *an act which would constitute*

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 *selling sexual relations, as defined by K.S.A. 2015 Supp. 21-6419*, and amendments thereto, the court shall refer the child to the secretary of the department for children and families for an assessment to determine safety, placement and treatment and service needs for the child. The secretary shall use a ~~research-based validated, evidence-based~~ assessment tool or instrument to assess such needs and shall make appropriate recommendations to the court. *The secretary shall provide only a summary of the results from the assessment tool or instrument, not the complete assessment tool or instrument.*

(b) 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 contact the department for children and families to begin an assessment to determine safety, *appropriate and timely* placement and ~~treatment needs for appropriate services to meet the immediate needs of the child.~~ *The secretary of the department for children and families shall use a rapid response team to begin such assessment for appropriate and timely placement.*

(c) This section shall be part of and supplemental to the revised Kansas code for care of children.

~~(d) This section shall take effect on and after January 1, 2014.~~

Sec. 17. K.S.A. 2015 Supp. 38-2302, as amended by section 29 of 2016 Senate Bill No. 367, is hereby amended to read as follows: 38-2302. As used in this code, unless the context otherwise requires:

(a) “Commissioner” means the secretary of corrections *or the secretary’s designee.*

(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 secretary of corrections.

(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.

(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.

(g) "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)(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.

(k) "Institution" means the Larned juvenile correctional facility and the Kansas juvenile correctional complex.

(l) "Investigator" means an employee of the ~~juvenile justice authority~~ *department of corrections* assigned by the ~~commissioner~~ *secretary of corrections* with the responsibility for investigations concerning employees at the juvenile correctional facilities and juveniles in the custody of the ~~commissioner~~ *secretary of corrections* at a juvenile correctional facility.

(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.

(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.

(o) “Juvenile correctional facility” means a facility operated by the secretary of corrections for the commitment of juvenile offenders.

(p) “Juvenile corrections officer” means a certified employee of the department of corrections working at a juvenile correctional facility assigned by the secretary of corrections with responsibility for maintaining custody, security and control of juveniles in the custody of the secretary of corrections at a juvenile correctional facility.

(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.

(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.

(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, K.S.A. 74-8810(j) or 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 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.

(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.

(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) *“Reasonable and prudent parenting standard” means the standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural and social activities.*

(y) “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.

~~(y)~~ (z) “Risk and needs assessment” means a standardized instrument administered on juveniles 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.

~~(z)~~ (aa) “Secretary” means the secretary of corrections or the secretary’s designee.

~~(aa)~~ (bb) “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

constitute 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)~~ (cc) “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.

~~(ee)~~ (dd) “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. 18. K.S.A. 2015 Supp. 38-2310 is hereby amended to read as follows: 38-2310. (a) All records of law enforcement officers and agencies and municipal courts concerning an offense committed or alleged to have been committed by a juvenile under 14 years of age shall be kept readily distinguishable from criminal and other records and shall not be disclosed to anyone except:

(1) The judge of the district court and members of the staff of the court designated by the judge;

(2) parties to the proceedings and their attorneys;

(3) the Kansas department for children and families;

(4) the juvenile’s court appointed special advocate, any officer of a public or private agency or institution or any individual having custody of a juvenile under court order or providing educational, medical or mental health services to a juvenile;

(5) any educational institution, to the extent necessary to enable the educational institution to provide the safest possible environment for its pupils and employees;

(6) any educator, to the extent necessary to enable the educator to protect the personal safety of the educator and the educator’s pupils;

(7) law enforcement officers or county or district attorneys, or their staff, when necessary for the discharge of their official duties;

(8) the central repository, as defined by K.S.A. 22-4701, and amendments thereto, for use only as a part of the juvenile offender information system established under K.S.A. 2015 Supp. 38-2326, and amendments thereto;

(9) juvenile intake and assessment workers;

(10) the department of corrections;

(11) juvenile community corrections officers;

(12) *the interstate compact for juveniles compact administrator for the purpose of carrying out the responsibilities related to the interstate compact for juveniles;*

~~(12)~~ (13) any other person when authorized by a court order, subject to any conditions imposed by the order; and

~~(13)~~ (14) as provided in subsection (c).

(b) The provisions of this section shall not apply to records concerning:

(1) A violation, by a person 14 or more years of age, of any provision of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind;

(2) a violation, by a person 16 or more years of age, of any provision of chapter 32 of the Kansas Statutes Annotated, and amendments thereto; or

(3) an offense for which the juvenile is prosecuted as an adult.

(c) All records of law enforcement officers and agencies and municipal courts concerning an offense committed or alleged to have been committed by a juvenile 14 or more years of age shall be subject to the same disclosure restrictions as the records of adults. Information identifying victims and alleged victims of sex offenses, as 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, and amendments thereto, K.S.A. 2015 Supp. 21-6419 through 21-6422, and amendments thereto, or human trafficking or aggravated human trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 2015 Supp. 21-5426, and amendments thereto, shall not be disclosed or open to public inspection under any circumstances. Nothing in this section shall prohibit the victim or any alleged victim of any sex offense from voluntarily disclosing such victim's identity.

(d) Relevant information, reports and records, shall be made available to the department of corrections upon request and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of corrections.

(e) All records, reports and information obtained as a part of the juvenile intake and assessment process for juveniles shall be confidential, and shall not be disclosed except as provided by statutory law and rules and regulations promulgated by the ~~commissioner~~ *secretary*.

(1) Any court of record may order the disclosure of such records, reports and other information to any person or entity.

(2) The head of any juvenile intake and assessment program, certified by the ~~commissioner of juvenile justice~~ *secretary*, may authorize disclosure of such records, reports and other information to:

(A) A person licensed to practice the healing arts who has before that person a juvenile whom the person reasonably suspects may be abused or neglected;

(B) a court-appointed special advocate for a juvenile or an agency having the legal responsibility or authorization to care for, treat or supervise a juvenile;

(C) a parent or other person responsible for the welfare of a juvenile,

or such person's legal representative, with protection for the identity of persons reporting and other appropriate persons;

(D) the juvenile, the attorney and a guardian ad litem, if any, for such juvenile;

(E) the police or other law enforcement agency;

(F) an agency charged with the responsibility of preventing or treating physical, mental or emotional abuse or neglect or sexual abuse of children, if the agency requesting the information has standards of confidentiality as strict or stricter than the requirements of the Kansas code for care of children or the revised Kansas juvenile justice code, whichever is applicable;

(G) members of a multidisciplinary team under this code;

(H) an agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect;

(I) any individual, or public or private agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a juvenile who is the subject of a report or record of child abuse or neglect, specifically including the following: Physicians, psychiatrists, nurses, nurse practitioners, psychologists, licensed social workers, child development specialists, physician assistants, community mental health workers, addiction counselors and licensed or registered child care providers;

(J) a citizen review board pursuant to K.S.A. 2015 Supp. 38-2207, and amendments thereto;

(K) an educational institution to the extent necessary to enable such institution to provide the safest possible environment for pupils and employees of the institution;

(L) any educator to the extent necessary for the protection of the educator and pupils; ~~and~~

(M) any juvenile intake and assessment worker of another certified juvenile intake and assessment program; *and*

(N) *the interstate compact for juveniles compact administrator for the purpose of carrying out the responsibilities related to the interstate compact for juveniles.*

Sec. 19. K.S.A. 2015 Supp. 38-2365 is hereby amended to read as follows: 38-2365. (a) When a juvenile offender has been placed in the custody of the ~~commissioner~~ *secretary*, the ~~commissioner~~ *secretary* shall have a reasonable time to make a placement. If the juvenile offender has not been placed, any party who believes that the amount of time elapsed without placement has exceeded a reasonable time may file a motion for review with the court. In determining what is a reasonable amount of time, matters considered by the court shall include, but not be limited to, the nature of the underlying offense, efforts made for placement of the juvenile offender and the availability of a suitable placement. The

~~commissioner~~ secretary shall notify the court, the juvenile's attorney of record and the juvenile's parent, in writing, of the initial placement and any subsequent change of placement as soon as the placement has been accomplished. The notice to the juvenile offender's parent shall be sent to such parent's last known address or addresses. The court shall have no power to direct a specific placement by the ~~commissioner~~ secretary, but may make recommendations to the ~~commissioner~~ secretary. The ~~commissioner~~ secretary may place the juvenile offender in an institution operated by the ~~commissioner~~ secretary, a youth residential facility or any other appropriate placement. If the court has recommended an out-of-home placement, the ~~commissioner~~ secretary may not return the juvenile offender to the home from which removed without first notifying the court of the plan.

(b) If a juvenile is in the custody of the ~~commissioner~~ secretary, the ~~commissioner~~ secretary shall prepare and present a permanency plan at sentencing or within 30 days thereafter. *If the juvenile is 14 years of age or older and the juvenile is able, the secretary shall prepare the permanency plan in consultation with the juvenile.* If a permanency plan is already in place under a child in need of care proceeding, the court may adopt the plan under the present proceeding. The written permanency plan shall provide for reintegration of the juvenile into such juvenile's family or, if reintegration is not a viable alternative, for other permanent placement of the juvenile. Reintegration may not be a viable alternative when: (1) The parent has been found by a court to have committed murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2015 Supp. 21-5402, and amendments thereto, murder in the second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2015 Supp. 21-5403, and amendments thereto, capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2015 Supp. 21-5401, and amendments thereto, voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2015 Supp. 21-5404, and amendments thereto, of a child or violated a law of another state which prohibits such murder or manslaughter of a child;

(2) the parent aided or abetted, attempted, conspired or solicited to commit such murder or voluntary manslaughter of a child;

(3) the parent committed a felony battery that resulted in bodily injury to the juvenile who is the subject of this proceeding or another child;

(4) the parent has subjected the juvenile who is the subject of this proceeding or another child to aggravated circumstances as defined in K.S.A. 38-1502, and amendments thereto;

(5) the parental rights of the parent to another child have been terminated involuntarily; or

(6) the juvenile has been in extended out-of-home placement as defined in K.S.A. 2015 Supp. 38-2202, and amendments thereto.

(c) If the juvenile is placed in the custody of the ~~commissioner~~ secretary, the plan shall be prepared and submitted by the ~~commissioner~~

secretary. If the juvenile is placed in the custody of a facility or person other than the ~~commissioner~~ *secretary*, the plan shall be prepared and submitted by a court services officer. If the permanency goal is reintegration into the family, the permanency plan shall include measurable objectives and time schedules for reintegration.

(d) During the time a juvenile remains in the custody of the ~~commissioner~~ *secretary*, the ~~commissioner~~ *secretary* shall submit to the court, at least every six months, a written report of the progress being made toward the goals of the permanency plan submitted pursuant to subsections (b) and (c) and the specific actions taken to achieve the goals of the permanency plan. If the juvenile is placed in foster care, the court may request the foster parent to submit to the court, at least every six months, a report in regard to the juvenile's adjustment, progress and condition. Such report shall be made a part of the juvenile's court social file. The court shall review the plan submitted by the ~~commissioner~~ *secretary* and the report, if any, submitted by the foster parent and determine whether reasonable efforts and progress have been made to achieve the goals of the permanency plan. If the court determines that progress is inadequate or that the permanency plan is no longer viable, the court shall hold a hearing pursuant to subsection (e).

(e) When the ~~commissioner~~ *secretary* has custody of the juvenile, a permanency hearing shall be held no more than 12 months after the juvenile is first placed outside such juvenile's home and at least every 12 months thereafter. Juvenile offenders who have been in extended out-of-home placement shall be provided a permanency hearing within 30 days of a request from the ~~commissioner~~ *secretary*. The court may appoint a guardian ad litem to represent the juvenile offender at the permanency hearing. *At the permanency hearing, the court shall determine whether and, if applicable, when the juvenile will be:*

- (1) *Reintegrated with the juvenile's parents;*
- (2) *placed for adoption;*
- (3) *placed with a permanent custodian; or*
- (4) *if the juvenile is 16 years of age or older and the secretary has documented compelling reasons why it would not be in the juvenile's best interests for a placement in one of the placements pursuant to paragraphs (1), (2) or (3), placed in another planned permanent arrangement.*

(f) At each permanency hearing, the court shall:

- (1) Make a written finding *as to* whether reasonable efforts have been made to accomplish the permanency goal and whether continued out-of-home placement is necessary for the juvenile's safety;
- (2) *make a written finding as to whether the reasonable and prudent parenting standard has been met and whether the juvenile has regular, ongoing opportunities to engage in age or developmentally appropriate activities. The secretary shall report to the court the steps the secretary is taking to ensure that the reasonable and prudent parenting standard*

is being met and that the juvenile has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consultation with the juvenile in an age-appropriate manner about the opportunities of the juvenile to participate in the activities; and

(3) if the juvenile is 14 years of age or older, document the efforts made by the secretary to help the juvenile prepare for the transition from custody to a successful adulthood. The secretary shall report to the court the programs and services that are being provided to the juvenile which will help the juvenile prepare for the transition from custody to a successful adulthood.

(g) The requirements of this subsection shall apply only if the permanency goal in place at the time of the hearing is another planned permanent arrangement as described in subsection (e)(4). At each permanency hearing held with respect to the juvenile, in addition to the requirements of subsection (f), the court shall:

(1) Ask the juvenile, if the juvenile is able, by attendance at the hearing or by report to the court, about the desired permanency outcome for the juvenile;

(2) document the intensive, ongoing and, as of the date of the hearing, unsuccessful permanency efforts made by the secretary to return the juvenile home or secure a placement for the juvenile with a fit and willing relative, a legal guardian or an adoptive parent. The secretary shall report to the court the intensive, ongoing and, as of the date of the hearing, unsuccessful efforts made by the secretary to return the juvenile home or secure a placement for the juvenile with a fit and willing relative, a legal guardian or an adoptive parent, including efforts that utilize search technology, including social media, to find biological family members of the children; and

(3) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the juvenile and provide compelling reasons why it continues to not be in the best interests of the juvenile to return home, be placed for adoption, be placed with a legal guardian or be placed with a fit and willing relative.

(h) Whenever a hearing is required under subsection (e), the court shall notify all interested parties of the hearing date, the ~~commissioner~~ secretary, foster parent and preadoptive parent or relatives providing care for the juvenile and hold a hearing. If the juvenile is 14 years of age or older, the court shall require notice of the time and place of the permanency hearing be given to the juvenile. Such notice shall request the juvenile's participation in the hearing by attendance or by report to the court. Individuals receiving notice pursuant to this subsection shall not be made a party to the action solely on the basis of this notice and opportunity to be heard. After providing the persons receiving notice an opportunity to be heard, the court shall determine whether the juvenile's

needs are being adequately met; whether services set out in the permanency plan necessary for the safe return of the juvenile have been made available to the parent with whom reintegration is planned; and whether reasonable efforts and progress have been made to achieve the goals of the permanency plan.

~~(g)~~ (i) If the court finds reintegration continues to be a viable alternative, the court shall determine whether and, if applicable, when the juvenile will be returned to the parent. The court may rescind any of its prior dispositional orders and enter any dispositional order authorized by this code or may order that a new plan for the reintegration be prepared and submitted to the court. If reintegration cannot be accomplished as approved by the court, the court shall be informed and shall schedule a hearing pursuant to subsection ~~(h)~~ (j). No such hearing is required when the parent voluntarily relinquishes parental rights or agrees to appointment of a permanent guardian.

~~(h)~~ (j) When the court finds any of the following conditions exist, the county or district attorney or the county or district attorney's designee shall file a petition alleging the juvenile to be a child in need of care and requesting termination of parental rights pursuant to the Kansas code for care of children: (1) The court determines that reintegration is not a viable alternative and either adoption or permanent guardianship might be in the best interests of the juvenile;

(2) the goal of the permanency plan is reintegration into the family and the court determines after 12 months from the time such plan is first submitted that progress is inadequate; or

(3) the juvenile has been in out-of-home placement for a cumulative total of 15 of the last 22 months, excluding trial home visits and juvenile in runaway status.

Nothing in this subsection shall be interpreted to prohibit termination of parental rights prior to the expiration of 12 months.

~~(i)~~ (k) A petition to terminate parental rights is not required to be filed if one of the following exceptions is documented to exist: (1) The juvenile is in a stable placement with relatives;

(2) services set out in the case plan necessary for the safe return of the juvenile have not been made available to the parent with whom reintegration is planned; or

(3) there are one or more documented reasons why such filing would not be in the best interests of the juvenile. Documented reasons may include, but are not limited to: The juvenile has close emotional bonds with a parent which should not be broken; the juvenile is 14 years of age or older and, after advice and counsel, refuses to be adopted; insufficient grounds exist for termination of parental rights; the juvenile is an unaccompanied refugee minor; or there are international legal or compelling foreign policy reasons precluding termination of parental rights.

Sec. 20. K.S.A. 2015 Supp. 65-535 is hereby amended to read as follows: 65-535. (a) A staff secure facility shall:

(1) Not include construction features designed to physically restrict the movements and activities of residents, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for the residents;

(2) implement written policies and procedures that include the use of a combination of supervision, inspection and accountability to promote safe and orderly operations;

(3) rely on locked entrances and delayed-exit mechanisms to secure the facility, and implement reasonable rules restricting entrance to and egress from the facility;

(4) implement written policies and procedures for ~~24-hour-a-day staff observation~~ *staff monitoring* of all facility entrances and exits;

(5) implement written policies and procedures for the screening and searching of both residents and visitors;

(6) implement written policies and procedures for knowing the whereabouts of all residents at all times and for handling runaways and unauthorized absences; and

(7) implement written policies and procedures for determining when the movements and activities of individual residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

(b) A staff secure facility shall provide the following services to children placed in such facility, *as appropriate, for the duration of the placement*:

(1) Case management;

(2) life skills training;

(3) health care;

(4) mental health counseling;

(5) substance abuse screening and treatment; and

(6) any other appropriate services.

(c) Service providers in a staff secure facility shall be trained to counsel and assist victims of human trafficking and sexual exploitation.

(d) *A staff secure facility may be on the same premises as that of another licensed facility.* If the staff secure facility is on the same premises as that of another licensed facility, the living unit of the staff secure facility shall be maintained in a separate, self-contained unit. No staff secure facility shall be in a city or county jail.

(e) ~~The secretary of health and environment~~ *for children and families*, in consultation with the attorney general, shall promulgate rules and regulations to implement the provisions of this section on or before January 1, ~~2014~~ 2017.

(f) This section shall be part of and supplemental to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 21. 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~~ *secretary of corrections* shall promulgate rules and regulations for the juvenile intake and assessment system and programs concerning juvenile offenders. If the ~~commissioner~~ *secretary of corrections* 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~~ *Except as otherwise provided in this subsection*, records, reports and information obtained as a part of the juvenile intake and assessment process ~~may~~ *shall not* be admitted into evidence in any proceeding and ~~may~~ *shall not* be used in a child in need of care proceeding ~~except~~ *or a juvenile offender proceeding*.

(1) *Such records, reports and information may be used in a child in need of care proceeding 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.

(2) *Such records, reports and information may be used in a juvenile offender proceeding only if such records, reports and information are in regard to the possible trafficking of a runaway. Such records, reports and information in regard to the possible trafficking of a runaway shall be made available to the appropriate county or district attorney and the court, and shall be used only for diagnostic and referral purposes.*

(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 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~~ *secretary of corrections* on and after July 1, 1997.

(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:

(1) A standardized risk assessment tool, 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.

(e) After completion of the intake and assessment process for such child, the intake and assessment worker may:

(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:

(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 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. 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 county or district attorney for appropriate proceedings to be filed or 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~~ *secretary of corrections* 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*.

(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.

Sec. 22. On and after January 1, 2017, K.S.A. 2015 Supp. 75-7023, as amended by section 63 of 2016 Senate Bill No. 367, is hereby amended to read as follows: 75-7023. (a) The secretary for children and families may contract with the secretary of corrections to provide for the juvenile intake and assessment system and programs for children in need of care. Except as provided further, the secretary of corrections shall promulgate rules and regulations for the juvenile intake and assessment system and programs concerning juvenile offenders. If the 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~~ *Except as otherwise provided in this subsection*, records, reports and information obtained as a part of the juvenile intake and assessment process ~~may~~ *shall not* be admitted into evidence in any proceeding and ~~may~~ *shall not* be used in a child in need of care proceeding ~~except~~ *or a juvenile offender proceeding*.

(1) *Such records, reports and information may be used in a child in need of care proceeding* 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.

(2) *Such records, reports and information may be used in a juvenile offender proceeding only if such records, reports and information are in regard to the possible trafficking of a runaway. Such records, reports and information in regard to the possible trafficking of a runaway shall be made available to the appropriate county or district attorney and the court, and shall be used only for diagnostic and referral purposes.*

(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, or except as provided above rules and regulations established by the 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 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;

(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 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.

(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 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) 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.

(f) The 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. 23. K.S.A. 2015 Supp. 23-3203, 38-2201, 38-2202, 38-2210, 38-2211, 38-2231, 38-2263, 38-2264, 38-2265, 38-2287, 38-2302, as amended by section 29 of 2016 Senate Bill No. 367, 38-2310, 38-2310a, 38-2365, 65-535 and 75-7023 are hereby repealed.

Sec. 24. On and after January 1, 2017, K.S.A. 2015 Supp. 75-7023, as amended by section 22 of this act, and 75-7023, as amended by section 63 of 2016 Senate Bill No. 367, are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the statute book.

CHAPTER 103

HOUSE BILL No. 2460

AN ACT concerning consumer protection; relating to identity theft and identity fraud; door-to-door sales; amending K.S.A. 2015 Supp. 50-6,139 and 60-4104 and repealing the existing sections; also repealing K.S.A. 2015 Supp. 50-7a03.

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

New Section 1. (a) Within the limits of available resources, the attorney general may assist victims of identity theft, identity fraud and related crimes and violations in obtaining refunds in relation to fraudulent or unauthorized charges or debits, canceling fraudulent accounts, correcting false information in consumer reports caused by identity theft or identity fraud, correcting false information in personnel files and court records, obtaining security freezes, completing identity theft affidavits, filing complaints and related matters.

(b) This section shall be part of and supplemental to the Kansas consumer protection act.

New Sec. 2. (a) As used in this section:

(1) “Holder of personal information” or “holder” means a person who, in the ordinary course of business, collects, maintains or possesses, or causes to be collected, maintained or possessed, the personal information of any other person.

(2) “Person” means any individual, partnership, corporation, trust, estate, cooperative, association, government, governmental subdivision or agency or other entity.

(3) “Personal information” means personal information as defined by K.S.A. 50-7a01(g), and amendments thereto, and any other information which identifies an individual for which an information security obligation is imposed by federal or state statute or regulation.

(4) “Record” has the meaning provided by K.S.A. 84-1-201, and amendments thereto.

(b) A holder of personal information shall:

(1) Implement and maintain reasonable procedures and practices appropriate to the nature of the information, and exercise reasonable care to protect the personal information from unauthorized access, use, modification or disclosure. If federal or state law or regulation governs the procedures and practices of the holder of personal information for such protection of personal information, then compliance with such federal or state law or regulation shall be deemed compliance with this paragraph and failure to comply with such federal or state law or regulation shall be prima facie evidence of a violation of this paragraph; and

(2) unless otherwise required by federal law or regulation, take reasonable steps to destroy or arrange for the destruction of any records within such holder’s custody or control containing any person’s personal

information when such holder no longer intends to maintain or possess such records. Such destruction shall be by shredding, erasing or otherwise modifying the personal identifying information in the records to make it unreadable or undecipherable through any means.

(c) A holder of personal information shall have an affirmative defense to a violation of subsection (b)(2) if such holder proves by clear and convincing evidence that:

(1) The violation resulted from a failure of the method of destruction of records to make personal information contained in such records unreadable or undecipherable through any means, and such failure could not reasonably have been foreseen despite the holder's exercise of reasonable care in selecting and employing a method of destruction; or

(2) the holder of personal information had in effect at the time of the violation a bona fide written or electronic records management policy, including practices and procedures reasonably designed, maintained, and expected to prevent a violation of subsection (b)(2), and that the records involved in the violation of subsection (b)(2) were destroyed or disposed of in violation of such policy. No affirmative defense under this paragraph shall be available unless such holder proves:

(A) The employees or other persons involved in the violation received training in the holder's written or electronic records management policy;

(B) the violation resulted from a good faith error; and

(C) no reasonable likelihood exists that the violation may cause, enable or contribute to identity theft or identity fraud as defined by K.S.A. 2015 Supp. 21-6107, and amendments thereto, or to a violation of an information security obligation imposed by federal or state statute or regulation.

(d) Each violation of this section shall be an unconscionable act or practice in violation of K.S.A. 50-627, and amendments thereto. Each record that is not destroyed in compliance with subsection (b)(2) shall constitute a separate unconscionable act within the meaning of K.S.A. 50-627, and amendments thereto.

(e) Notwithstanding any other provision of law to the contrary, the exclusive authority to bring an action for any violation of this section shall be with the attorney general. Nothing in this section shall be construed to create or permit a private cause of action for any violation of this section.

(f) Nothing in this section relieves a holder of personal information from any duty to comply with other requirements of state and federal law regarding the protection of such information.

(g) This section shall be part of and supplemental to the Kansas consumer protection act.

Sec. 3. K.S.A. 2015 Supp. 50-6,139 is hereby amended to read as follows: 50-6,139. (a) The conduct prohibited by K.S.A. 2015 Supp. 21-

6107, 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 such conduct 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 the conduct prohibited by K.S.A. 2015 Supp. 21-6107, and amendments thereto, 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) This section shall be part of and supplemental to the Kansas consumer protection act ~~and~~.

(d) *The provisions of this section and sections 1 and 2, and amendments thereto, shall be known and may be cited as the Wayne Owen ~~law~~ act.*

New Sec. 4. (a) Violation of a consumer protection order is engaging in a door-to-door sale while prohibited from door-to-door sales.

(b) Violation of a consumer protection order is a severity level 9, person felony.

(c) As used in this section:

(1) “Door-to-door sale” has the meaning provided by K.S.A. 50-640, and amendments thereto.

(2) “Engaging in” means participating, directly or indirectly, in the prohibited conduct or causing, directing, employing, enabling or assisting others to participate in such conduct.

(3) “Prohibited from door-to-door sales” means subject to any temporary or permanent order or judgment of a court entered under authority of the Kansas consumer protection act, K.S.A. 50-623 et seq., and amendments thereto, or any act that is part of or supplemental to the consumer protection act, and that restrains, enjoins or otherwise prohibits the person from engaging in door-to-door sales in this state or any portion thereof. For purposes of this section, an order or judgment restrains, enjoins or otherwise prohibits the person from engaging in door-to-door sales in this state or any portion thereof if such order or judgment:

(A) Expressly prohibits the person from engaging in door-to-door sales;

(B) prohibits conduct that includes, but is not limited to, engaging in door-to-door sales, such as prohibiting the person from engaging in consumer transactions as defined by K.S.A. 50-624, and amendments thereto; or

(C) prohibits engaging in only a particular type of door-to-door sale, such as the door-to-door sale of roofing-related services within the meaning of K.S.A. 2015 Supp. 50-6,122, and amendments thereto, or prohibits

engaging in door-to-door sales only in a particular place. In such case, criminal liability under this section shall arise only if the person engaged in the particular type of door-to-door sale that is restrained, enjoined or otherwise prohibited or engaged in a door-to-door sale in the particular place where such sale is restrained, enjoined or otherwise prohibited.

(d) A person shall be subject to criminal liability under this section only if the state proves beyond a reasonable doubt that such person had actual or constructive notice of the temporary or permanent order or judgment described in subsection (b)(3).

(1) A person has actual notice of the existence of a temporary or permanent order or judgment if:

(A) Such order or judgment was actually served on such person in any manner authorized by the code of civil procedure or the Kansas consumer protection act, other than K.S.A. 60-307, and amendments thereto, at any time prior to the violation of this section, regardless of when such order or judgment was issued; or

(B) such person otherwise had actual knowledge of such order or judgment.

(2) A person has constructive notice of the existence of a temporary or permanent order or judgment if, on or after July 1, 2016:

(A) The petition or subpoena that resulted in issuance of such order or judgment was actually served on such person in any manner authorized by the code of civil procedure or the Kansas consumer protection act, other than K.S.A. 60-307, and amendments thereto;

(B) the petition or subpoena contained, or was accompanied by, notice that failure to answer the petition or comply with the subpoena could result in such person being prohibited from door-to-door sales should a judgment be issued, and that a violation of the judgment could constitute an additional crime;

(C) actual service of such order or judgment on such person was attempted, but was refused or left unclaimed; and

(D) such order or judgment is posted conspicuously on an official and publicly available website of the office of the attorney general, whether or not such order or judgment was actually served on such person. Compliance with this paragraph shall create a rebuttable presumption that such person had knowledge of the existence of such order or judgment, but such presumption may be rebutted by showing, through a preponderance of evidence, that such person neither knew nor should have known of the existence of such order or judgment.

(e) The criminal liability imposed by this section shall not relieve any person of civil liability for violating a consumer protection order, and any criminal penalties authorized by law may be imposed in addition to any civil sanctions or liability authorized by law.

(f) The attorney general, or county attorney or district attorney, or both, may institute criminal action to prosecute this offense.

(g) This section shall be part of and supplemental to the Kansas criminal code.

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

New Sec. 5. The attorney general may post conspicuously on an official and publicly available website of the office of the attorney general any judgment or order that restrains, enjoins or otherwise prohibits a person from engaging in door-to-door sales, as defined in section 4(c), and amendments thereto.

Sec. 6. K.S.A. 2015 Supp. 60-4104 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

(a) All offenses which statutorily and specifically authorize forfeiture;
(b) violations involving controlled substances, as described in K.S.A. 2015 Supp. 21-5701 through 21-5717, and amendments thereto;

(c) theft, as defined in K.S.A. 2015 Supp. 21-5801, and amendments thereto;

(d) criminal discharge of a firearm, as defined in ~~subsections (a)(1) and (a)(2) of~~ K.S.A. 2015 Supp. 21-6308(a)(1) and (a)(2), and amendments thereto;

(e) gambling, as defined in K.S.A. 2015 Supp. 21-6404, and amendments thereto, and commercial gambling, as defined in ~~subsection (a)(1) of~~ K.S.A. 2015 Supp. 21-6406(a)(1), and amendments thereto;

(f) counterfeiting, as defined in K.S.A. 2015 Supp. 21-5825, and amendments thereto;

(g) unlawful possession or use of a scanning device or reencoder, as described in K.S.A. 2015 Supp. 21-6108, and amendments thereto;

(h) medicaid fraud, as described in K.S.A. 2015 Supp. 21-5925 through 21-5934, and amendments thereto;

(i) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;

(j) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;

(k) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;

(l) terrorism, as defined in K.S.A. 2015 Supp. 21-5421, and amendments thereto, illegal use of weapons of mass destruction, as defined in K.S.A. 2015 Supp. 21-5422, and amendments thereto, and furtherance of terrorism or illegal use of weapons of mass destruction, as described in K.S.A. 2015 Supp. 21-5423, and amendments thereto;

(m) unlawful conduct of dog fighting and unlawful possession of dog fighting paraphernalia, as defined in ~~subsections (a) and (b)~~ of K.S.A. 2015 Supp. 21-6414(a) and (b), and amendments thereto;

(n) unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, as defined in ~~subsections (a) and (b)~~ of K.S.A. 2015 Supp. 21-6417(a) and (b), and amendments thereto;

(o) selling sexual relations, as defined in K.S.A. 2015 Supp. 21-6419, and amendments thereto, promoting the sale of sexual relations, as defined in K.S.A. 2015 Supp. 21-6420, and amendments thereto, and buying sexual relations, as defined in K.S.A. 2015 Supp. 21-6421, and amendments thereto;

(p) human trafficking and aggravated human trafficking, as defined in K.S.A. 2015 Supp. 21-5426, and amendments thereto;

(q) violations of the banking code, as described in K.S.A. 9-2012, and amendments thereto;

(r) mistreatment of a dependent adult, as defined in K.S.A. 2015 Supp. 21-5417, and amendments thereto;

(s) giving a worthless check, as defined in K.S.A. 2015 Supp. 21-5821, and amendments thereto;

(t) forgery, as defined in K.S.A. 2015 Supp. 21-5823, and amendments thereto;

(u) making false information, as defined in K.S.A. 2015 Supp. 21-5824, and amendments thereto;

(v) criminal use of a financial card, as defined in K.S.A. 2015 Supp. 21-5828, and amendments thereto;

(w) unlawful acts concerning computers, as described in K.S.A. 2015 Supp. 21-5839, and amendments thereto;

(x) identity theft and identity fraud, as defined in ~~subsections (a) and (b)~~ of K.S.A. 2015 Supp. 21-6107(a) and (b), and amendments thereto;

(y) electronic solicitation, as defined in K.S.A. 2015 Supp. 21-5509, and amendments thereto;

(z) felony violations of fleeing or attempting to elude a police officer, as described in K.S.A. 8-1568, and amendments thereto;

(aa) commercial sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-6422, and amendments thereto;

(bb) violations of the Kansas racketeer influenced and corrupt organization act, as described in K.S.A. 2015 Supp. 21-6329, and amendments thereto;

(cc) indecent solicitation of a child and aggravated indecent sollicita-

tion of a child, as defined in K.S.A. 2015 Supp. 21-5508, and amendments thereto; ~~and~~

(dd) sexual exploitation of a child, as defined in K.S.A. 2015 Supp. 21-5510, and amendments thereto; *and*

(*ee*) *violation of a consumer protection order as defined in section 4, and amendments thereto.*

Sec. 7 K.S.A. 2015 Supp. 50-6,139, 50-7a03 and 60-4104 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 17, 2016.

CHAPTER 104

SENATE BILL No. 366

AN ACT concerning local governmental regulatory authority; relating to regulation of food labeling, food-related consumer incentive items, food distribution and food production; inspection of residential property; price controls on private residential or commercial property; regulation of employers with regard to employee scheduling; amending K.S.A. 12-16,120 and K.S.A. 2015 Supp. 12-16,130 and repealing the existing sections.

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

New Section 1. As used in sections 1 and 2, and amendments thereto:

(a) “Food” means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages or tobacco.

(b) “Food that is a menu item in vending machines” means food dispensed through a machine or other mechanical device that accepts payment.

(c) “Retail food establishment” or “food service operation” means any place in which food is served or is prepared on the premises for retail sale or service in a heated state or heated by the seller, mixed or combined by the seller for sale as a single item or sold with eating utensils provided by the seller and is intended for immediate consumption. Such term shall include, but not be limited to, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, taverns, private clubs, roadside kitchens, commissaries, drive-in restaurants and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(d) “Food nutrition information” includes, but is not limited to, the

caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin, mineral, sodium and allergen content of food. "Food nutrition information" also includes the designation of food as healthy or unhealthy.

(e) "Political subdivision" means political or taxing subdivisions of the state, including counties, townships, cities, school districts, authorities or other municipal or public corporations, agencies, boards, commissions, councils, committees, subcommittees and other subordinate groups or administrative units thereof, receiving or expending and supported, in whole or in part, by public funds.

(f) "Consumer incentive item" means any licensed media character, toy, game, trading card, contest, point accumulation, club membership, admission ticket, token, code or password for digital access, coupon, voucher, incentive, crayons, coloring placemats or other premium, prize or consumer product that is associated with a meal served by or acquired from a food service operation.

New Sec. 2. (a) The regulation of consumer incentive items and nutrition labeling for food and nonalcoholic beverages that are menu items in restaurants, retail food establishments or vending machines is reserved to the legislature and may be regulated only by legislation of statewide application enacted after the effective date of this act. The regulation of the provision of food nutrition information and consumer incentive items at food service operations and how food service operations are characterized are matters of general statewide interest that require statewide regulation, and rules and regulations adopted under this section constitute a comprehensive plan with respect to all aspects of the regulation of the provision of food nutrition information and consumer incentive items at food service operations in this state. Rules and regulations adopted under this act shall be applied uniformly throughout this state.

(b) The state of Kansas, and any political subdivision thereof, shall not do any of the following:

(1) Enact, adopt or continue in effect local legislation relating to the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;

(2) condition any license, permit or regulatory approval upon the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;

(3) ban, prohibit or otherwise restrict food at food service operations based upon the food's nutrition information or upon the provision or nonprovision of consumer incentive items;

(4) condition any license, permit or regulatory approval for a food service operation upon the existence or nonexistence of food-based health disparities;

(5) where food service operations are permitted to operate, ban, prohibit or otherwise restrict a food service operation based upon the exis-

tence or nonexistence of food-based health disparities as recognized by the department of health, the institute of health or the centers for disease control;

(6) restrict the sale, distribution or serving of foods and nonalcoholic beverages that are approved for sale by the United States department of agriculture or other federal or state government agencies; or

(7) restrict the growing or raising of livestock or grain, vegetables, fruits or other crops grown or raised for food and approved for sale by the United States department of agriculture or other federal or state government agencies.

(c) Sections 1 and 2, and amendments thereto, shall not be interpreted as being more restrictive than any federal law or affecting in any manner the regulation of the nutrition labeling of food that is a menu item in restaurants, retail food establishments and vending machines pursuant to the federal food, drug and cosmetic act, 21 U.S.C. § 343(q)(5)(H).

(d) Nothing in sections 1 and 2, and amendments thereto, restricts a political subdivision, as defined herein, from owning or managing a food service facility and from purchasing and serving food products according to the Kansas food code and their own policies as long as those policies are not laws or ordinances restricting any other entity.

(e) Nothing in sections 1 and 2, and amendments thereto, shall be construed as limiting or restricting the zoning authority of a political subdivision authorized by article 7 of chapter 12 or article 29 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, or by any other provision of law.

(f) Nothing in sections 1 and 2, and amendments thereto, restricts a political subdivision, as defined herein, from creating and promulgating food nutrition information or food-based health disparity information, only in accordance with the United States department of agriculture dietary guidelines for Americans promulgated under 7 U.S.C. § 5341, as long as the information is not contained in a law or ordinance restricting any other entity.

(g) Nothing in this act restricts a political subdivision from financially participating in a food assistance program as long as that program operates in accordance with the United States department of agriculture dietary guidelines for Americans promulgated under 7 U.S.C. § 5341, and as long as the program is not contained in a law or ordinance restricting any other entity.

New Sec. 3. (a) No city or county shall adopt, enforce or maintain a residential property licensing ordinance or resolution which includes a requirement for periodic interior inspections of privately owned residential property for city or county code violations unless the lawful occupant has consented to such interior inspections. This subsection shall not apply

to inspections of mixed-use residential and commercial property. This subsection shall not prohibit a city or county from conducting plan reviews, periodic construction inspections or final occupancy inspections as required by building permits.

(b) Any lawful occupant residing in privately owned residential housing located within the corporate limits of a city may request an inspection at any time by the city or, if the property is located in the unincorporated area of the county, by the county to determine code violations.

Sec. 4. K.S.A. 12-16,120 is hereby amended to read as follows: 12-16,120. (a) No political subdivision of this state, including, but not limited to, a county, municipality or township, shall enact, maintain or enforce any ordinance or resolution that would have the effect of controlling the amount of rent charged *or the purchase price agreed upon between the parties to the transaction* ~~for leasing private~~ *the lease or purchase of privately owned residential or commercial property.*

(b) This section shall not impair the right of any ~~local unit of government~~ *political subdivision* to manage and control *commercial or residential property in which such* ~~local unit of government~~ *political subdivision has a property an ownership interest.*

(c) *This section shall not impair the right of any owner of privately owned property to enter into a voluntary agreement with a political subdivision to agree to requirements that would have the effect of controlling the amount of rent charged or the purchase price agreed upon between the parties to the transaction for the lease or purchase of privately owned property in return for grants or incentives provided by the political subdivision to the owner of privately owned property.*

(d) *No political subdivision shall require any owner of privately owned property to agree to any requirements that would have the effect of controlling the amount of rent charged or the purchase price agreed upon between the parties to the transaction for the lease or purchase of privately owned property, as a condition for consideration or approval of:*

- (1) *Any building permit or plat; or*
- (2) *any request for a zoning regulation, boundary, classification or a conditional use permit, or for a change or variance in a zoning regulation, boundary, classification or a conditional use permit.*

Sec. 5. K.S.A. 2015 Supp. 12-16,130 is hereby amended to read as follows: 12-16,130. (a) No city, county or local government unit shall enact or administer any ordinance, resolution or law which requires an employer to:

- (1) Provide to such employer's employees any leave from work, either with or without pay, unless such leave is required by state or federal law;
- (2) pay compensation to such employer's employees for any leave

from work unless payment of compensation for such leave is required by state or federal law;

(3) pay compensation or wages at any rate higher than the minimum wage unless the payment of higher compensation or wages is required by state or federal law; ~~or~~

(4) offer an employee benefit other than those required by state or federal law; *or*

(5) *alter or adjust any employee scheduling unless the alteration or adjustment is required by state or federal law.*

(b) Subsection (a) shall not impact, or apply to, requirements under state economic development incentive programs or city, county, local government or local economic development agency business attraction, retention or recruitment programs.

Sec. 6. K.S.A. 12-16,120 and K.S.A. 2015 Supp. 12-16,130 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 17, 2016.

CHAPTER 105

SENATE BILL No. 449

AN ACT concerning the Kansas department for aging and disability services; relating to powers, duties and functions; licensure of facilities; standards of treatment of certain individuals; prohibiting the privatization of state psychiatric hospitals; client assessment, referral and evaluation program; amending K.S.A. 2015 Supp. 39-968 and repealing the existing section; also repealing K.S.A. 39-1807 and 79-3307c and K.S.A. 2015 Supp. 75-3307b.

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

Section 1. The purpose of this act is the development, establishment and enforcement of standards:

(a) For the care, treatment, health, safety, welfare and comfort of individuals residing in or receiving treatment or services provided by residential care facilities, residential and day support facilities, private and public psychiatric hospitals, psychiatric residential treatment facilities, community mental health centers and providers of other disability services licensed by the secretary for aging and disability services; and

(b) for the construction, maintenance or operation, or any combination thereof, of facilities, hospitals, centers and providers of services that will promote safe and adequate accommodation, care and treatment of such individuals.

Sec. 2. As used in this act, the following terms shall have the meanings ascribed to them in this section:

(a) “Center” means a community mental health center.

(b) “Community mental health center” means a center organized pursuant to article 40 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, or a mental health clinic organized pursuant to article 2 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(c) “Department” means the department for aging and disability services.

(d) “Facility” means any place other than a center or hospital that meets the requirements as set forth by regulations created and adopted by the secretary, where individuals reside and receive treatment or services provided by a person or entity licensed under this act.

(e) “Hospital” means a psychiatric hospital.

(f) “Individual” means a person who is the recipient of behavioral health, intellectual disabilities, developmental disabilities or other disability services as set forth in this act.

(g) “Licensee” means one or more persons or entities licensed by the secretary under this act.

(h) “Licensing agency” means the secretary for aging and disability services.

(i) “Other disabilities” means any condition for which individuals receive home and community based waiver services.

(j) “Provider” means a person, partnership or corporation employing or contracting with appropriately credentialed persons that provide behavioral health, excluding substance use disorder services for purposes of this act, intellectual disability, developmental disability or other disability services in accordance with the requirements as set forth by rules and regulations created and adopted by the secretary.

(k) “Psychiatric hospital” means an institution, excluding state institutions as defined in K.S.A. 76-12a01, and amendments thereto, that is primarily engaged in providing services, by and under the supervision of qualified professionals, for the diagnosis and treatment of mentally ill individuals, and the institution meets the licensing requirements as set forth by rules and regulations created and adopted by the secretary.

(l) “Psychiatric residential treatment facility” means any non-hospital facility with a provider agreement with the licensing agency to provide the inpatient services for individuals under the age of 21 who will receive highly structured, intensive treatment for which the licensee meets the requirements as set forth by regulations created and adopted by the secretary.

(m) “Residential care facility” means any place or facility, or a contiguous portion of a place or facility, providing services for two or more individuals not related within the third degree of relationship to the ad-

ministrator, provider or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and supervised nursing care to compensate for activities of daily living limitations, and which place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of an individual's independence, including crisis residential care facilities.

(n) "Secretary" means the secretary for aging and disability services.

(o) "Services" means the following types of behavioral health, intellectual disability, developmental disability and other disability services, including, but not limited to: Residential supports, day supports, care coordination, case management, workshops, sheltered domiciles, education, therapeutic services, assessments and evaluations, diagnostic care, medicinal support and rehabilitative services.

Sec. 3. (a) In addition to the authority, powers and duties otherwise provided by law, the secretary shall have the following authority, powers and duties to:

(1) Enforce the laws relating to the hospitalization of mentally ill individuals of this state in a psychiatric hospital and the diagnosis, care, training or treatment of individuals receiving services through community mental health centers, psychiatric residential treatment facilities for individuals with mental illness, residential care facilities or other facilities and services for individuals with mental illness, intellectual disabilities, developmental disabilities or other disabilities.

(2) Inspect, license, certify or accredit centers, facilities, hospitals and providers for individuals with mental illness, intellectual disabilities, developmental disabilities or other disabilities pursuant to federal legislation, and to deny, suspend or revoke a license granted for causes shown.

(3) Set standards for centers, facilities, hospitals and providers for individuals with mental illness, intellectual disabilities, developmental disabilities or other disabilities pursuant to federal legislation.

(4) Set standards for, inspect and license all providers and facilities for individuals with mental illness, intellectual disabilities, developmental disabilities or other disabilities receiving assistance through the Kansas department for aging and disability services which receive or have received after June 30, 1967, any state or federal funds, or facilities where individuals with mental illness, intellectual disabilities or developmental disabilities reside who require supervision or require limited assistance with the taking of medication. The secretary may adopt rules and regulations that allow the facility to assist an individual with the taking of medication when the medication is in a labeled container dispensed by a pharmacist.

(5) Enter into contracts necessary or incidental to the performance of the secretary's duties and the execution of the secretary's powers.

(6) Solicit and accept for use any gift of money or property, real or personal, made by will or otherwise, and any grant of money, services or property from the federal government, the state or any political subdivision thereof or any private source and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant.

(7) Administer or supervise the administration of the provisions relating to individuals with mental illness, intellectual disabilities, developmental disabilities or other disabilities pursuant to federal legislation and regulations.

(8) Coordinate activities and cooperate with treatment providers or other facilities for those with mental illness, intellectual disabilities, developmental disabilities or other disabilities pursuant to federal legislation and regulations in this and other states for the treatment of such individuals and for the common advancement of these programs and facilities.

(9) Keep records, gather relevant statistics, and make and disseminate analyses of the same.

(10) Do other acts and things necessary to execute the authority expressly granted to the secretary.

(b) Notwithstanding the existence or pursuit of any other remedy, the secretary for aging and disability services, as the licensing agency, in the manner provided by the Kansas judicial review act, may maintain an action in the name of the state of Kansas for an injunction against any person or facility to restrain or prevent the operation of a residential care facility, crisis residential care facility, private or public psychiatric hospital, psychiatric residential treatment facility, provider of services, community mental health center or any other facility providing services to individuals without a license.

(c) Reports and information shall be furnished to the secretary by the superintendents, executive or other administrative officers of all psychiatric hospitals, community mental health centers or facilities serving individuals with intellectual disabilities or developmental disabilities and facilities serving other disabilities receiving assistance through the Kansas department for aging and disability services.

Sec. 4. (a) The secretary may adopt rules and regulations necessary to carry out the provisions of this act. Such rules and regulations may prescribe minimum standards and requirements relating to: The location, building, size of centers, facilities and hospitals; environmental standards; capacity; the individuals allowed; the types of services offered; the records to be kept; medication management; policies and procedures specific to centers, facilities, hospitals and providers; the kind and frequency of reports and inventories to be made; and may generally establish such requirements as may be deemed necessary to protect the health, safety, hygiene, welfare and comfort of the individuals.

(b) The authority granted to the secretary under this act is in addition to other statutory authority the secretary has to require the licensing and operation of centers, facilities, hospitals and providers and is not to be construed to limit any of the powers and duties of the secretary under article 59 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 5. All pertinent laws of this state and lawfully adopted ordinances and rules and regulations shall be strictly complied with in the operation of any center, facility, hospital or provision of services in this state. All centers, facilities, hospitals and providers shall comply with all the lawfully established requirements and rules and regulations of the secretary and the state fire marshal, and any other agency of government so far as pertinent and applicable to such centers, facilities, hospitals and providers, their buildings, staff, facilities, maintenance, operation, conduct and the care and treatment of individuals.

Sec. 6. It shall be unlawful for any person or entity to operate a center, facility, hospital or be a provider of services within this state, except upon obtaining a license for that purpose from the secretary as the licensing agency upon application made therefor as provided in this act, and complying with the requirements, standards, rules and regulations promulgated under its provisions.

Sec. 7. An application for a license to operate a center, facility, hospital or to be a provider of services shall be made in writing to the licensing agency on forms made available by the agency. The application shall contain all information required by the licensing agency, which may include affirmative evidence of the applicant's ability to comply with the standards and rules and regulations as adopted under the provisions of this act. The application shall be signed by the person or persons seeking the license or by a duly authorized agent.

Sec. 8. (a) Upon receipt of an initial or renewal application for a license, the licensing agency, with the approval of the state fire marshal, shall issue a license if the applicant is fit and qualified and if the center, facility, hospital or provider meets the requirements established under this act and such rules and regulations as are adopted under the provisions of this act. The licensing agency, the state fire marshal and the county, city-county or multi-county health departments or their designated representatives shall make such inspections and investigations as are necessary to determine the conditions existing in each case, and a written report of such inspections and investigations and the recommendations of the state fire marshal and the county, city-county or multi-county health department or their authorized agents shall be filed with the licensing agency. A copy of any inspection report required by this section shall be furnished to the applicant.

(b) The initial application for licensure and renewal of licensure fees

for a license shall be fixed by the secretary by rules and regulations. The initial application for licensure fee shall be paid to the secretary when the license is applied for and annually thereafter. The fee shall not be refundable. Fees in effect under this subsection immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary by rules and regulations.

(c) Each license shall be issued only for the premises or providers named in the application, or both, and shall not be transferable or assignable. The license shall be posted in a conspicuous place in the center, facility, hospital or provider's principal location. If the annual report is not so filed and a renewal of licensure fee, if any, is not paid, such license shall be automatically denied or revoked. Any license granted under the provisions of this act shall state the type of facility or service for which the license is granted, the number of individuals for whom granted, the person or persons to whom granted, the date and such additional information and special limitations deemed appropriate by the licensing agency.

(d) A license, unless sooner suspended or revoked, shall remain in effect until the date of expiration specified by the secretary. Licensees seeking renewal shall file a renewal application containing such information in such form as the licensing agency prescribes together with payment of any required annual fee. Upon review and approval by the licensing agency and the state fire marshal or their duly authorized agents, a license shall be issued and effective until the date of expiration.

(e) (1) Programs and treatments provided by a community mental health center that have been previously licensed by the secretary for aging and disability services and that have also been accredited by the commission on accreditation of rehabilitation facilities or the joint commission, or another national accrediting body approved by the secretary for aging and disability services, shall be granted a license renewal based on such accreditation.

(2) The Kansas department for aging and disability services shall inspect accredited community mental health centers to determine compliance with state licensing standards and rules and regulations not covered by the accrediting entity's standards. Community mental health centers receiving accreditation shall continue to be subject to inspections and investigations by the Kansas department for aging and disability services resulting from complaints.

Sec. 9. (a) No licensee shall knowingly operate a center, facility, hospital or be a provider of services if any person who works in the center, facility, hospital or for a provider of services:

(1) (A) Has a felony conviction for a crime against persons;

(B) has a felony conviction under K.S.A. 2010 Supp. 21-36a01

through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009;

(C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 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, and amendments thereto, or a conviction of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2015 Supp. 21-5301, and amendments thereto, to commit any such act or a conviction of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2015 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of other states or the federal government; or

(D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2015 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;

(2) has been adjudicated a juvenile offender because of having committed an act which if committed by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 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, and amendments thereto, or similar statutes of other states or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2015 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;

(3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the Kansas department for children and families pursuant to K.S.A. 2015 Supp. 38-2226, and amendments thereto, and:

(A) The person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the Kansas department for children and families; or

(B) the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families;

(4) has had a child removed from home based on a court order pursuant to K.S.A. 2015 Supp. 38-2251, and amendments thereto, in this state, or a court order in any other state based upon a similar statute that finds the child to be deprived or a child in need of care based on a finding of physical, mental or emotional abuse or neglect or sexual abuse and the child has not been returned to the home or the child reaches majority

before being returned to the home and the person has failed to satisfactorily complete a corrective action plan;

(5) has had parental rights terminated pursuant to the revised Kansas code for the care of children or a similar statute of another state; or

(6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 2015 Supp. 38-2346, and amendments thereto, involving a charge of child abuse or a sexual offense.

(b) No licensee shall operate a center, facility, hospital or be a provider of services if such person has been found to be an adult with an impairment in need of a guardian or a conservator, or both, as provided in the act for obtaining a guardian or conservator, or both.

(c) The secretary shall notify the licensee, within 10 business days, when the result of the national criminal history record check or other appropriate review reveals unfitness as specified in subsections (a)(1) through (6) with regard to the person who is the subject of the review.

(d) No licensee, its contractors or employees, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such licensee's compliance with the provisions of this section if such licensee acts in good faith to comply with this section.

(e) Any licensee or member of the staff who receives information concerning the fitness or unfitness of any person shall keep such information confidential, except that the staff person may disclose such information to the person who is the subject of the request for information. A violation of this subsection shall be an unclassified misdemeanor punishable by a fine of \$100.

(f) The licensing agency may require a person seeking licensure or applying to work in a facility to be fingerprinted and submit to 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 criminal history in this state or other jurisdiction. The licensing agency is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The licensing agency may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, work with, or provide services to individuals as applicable under this act.

(g) The secretary shall have access to any criminal history record information in the possession of the Kansas bureau of investigation regarding any criminal history information, including adjudications of a juvenile offender which if committed by an adult would have been a felony conviction for the purposes specified in this act. The Kansas bureau of investigation may charge to the Kansas department for aging and disability

services a reasonable fee for providing criminal history record information under this subsection.

(h) The secretary shall charge each person or licensee requesting information under this section a fee equal to cost for each person about which an information request has been submitted to the department under this section.

(i) For the purpose of complying with this section, the licensee operating a center, facility, hospital or a provider of services shall request from the Kansas department for aging and disability services information regarding any criminal history information relating to a person who works in the center, facility, hospital or for a provider of services, or who is being considered for employment or volunteer work in the facility, center, hospital or with the service provider, for the purpose of determining whether such person is subject to the provisions of this section. For the purpose of complying with this section, the licensee operating a center, facility, hospital or a provider of services shall report the dates of employment and separation of all persons working for the licensee operating a center, facility, hospital or a provider of services. For the purposes of complying with this section, any employment agency which provides employees to work in a center, facility, hospital or a provider of services shall request and receive an eligibility determination from the Kansas department for aging and disability services. Any licensee operating a center, facility, hospital or a provider of services will obtain written documentation that such employees are eligible to work. For the purpose of complying with this section, a licensee may hire an applicant for employment on a conditional basis pending the results from the Kansas department for aging and disability services of an eligibility determination under this subsection. As required by the patient protection and affordable care act, 42 U.S.C. § 18001, a person disqualified from employment due to a valid background check may appeal in accordance with requirements, standards, rules and regulations to be promulgated by the secretary.

(j) No person who works for a center, facility or hospital and who is currently licensed or registered by an agency of this state to provide professional services in the state and who provides such services as part of the work which such person performs for the center, facility or hospital shall be subject to the provisions of this section.

(k) A licensee may request from the Kansas department for aging and disability services criminal history information on persons employed under subsection (j).

(l) The licensee operating a center, facility, hospital or a provider of services shall not require an applicant under this section to be fingerprinted, if the applicant has been the subject of a background check under this act within one year prior to the application for employment with the licensee operating a center, facility, hospital or a provider of services and has maintained a record of continuous employment, with no lapse of

employment of over 90 days in any center, facility, hospital or a provider of services covered by this act.

(m) No person who is in the custody of the secretary of corrections and who provides services under direct supervision in non-patient areas on the grounds or other areas designated by the secretary of corrections shall be subject to the provisions of this section while providing such services.

Sec. 10. All licenses issued under the provisions of chapter 33 of article 75 of the Kansas Statutes Annotated, and amendments thereto, for centers, facilities, hospitals and providers prior to the effective date of this act shall continue in force until the license's date of expiration unless sooner suspended or revoked as provided in this act. All persons holding such licenses which are in force on the effective date of this act shall be permitted not more than four months from the effective date of this act to comply with the rules and regulations and standards promulgated under the authority of this act wherein those rules and regulations and standards differ in any substantial respect from those in force and effect immediately prior to the effective date of this act under the provisions of chapter 59 of article 75 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 11. (a) Inspections and investigations shall be made, announced or unannounced, and reported in writing by the authorized agents and representatives of the licensing agency and state fire marshal, and of the county, city-county and multi-county health departments as often and in the manner and form prescribed by the rules and regulations promulgated under the provisions of this act. Access shall be given to the premises of any center, facility, hospital or provider, depending on the type of service provided by the provider and locations at any time upon presenting adequate identification to carry out the requirements of this section and the provisions and purposes of this act. Access shall be given to the premises of a facility that is a private residence only for cause as prescribed by rules and regulations adopted under the provisions of this act. Failure to provide such access may constitute grounds for denial, suspension or revocation of the license. A copy of any inspection or investigation reports required by this section shall be furnished to the applicant or licensee. An exit interview shall be conducted with the licensee.

(b) The secretary shall inspect any facility or provider of residential services which serves two or more residents who are not self-directing their services, and which is subject to licensure under this act.

(c) Every licensee shall post in a conspicuous place a notice indicating that the most recent inspection report and related documents may be examined upon request. If requested, the licensee shall provide the most recent inspection report and related documents, subject to the payment of a reasonable charge to cover copying costs.

Sec. 12. A provisional license may be issued to any center, facility, hospital or provider which is temporarily unable to conform to all the standards, requirements and rules and regulations established under the provisions of this act. The issuance of such provisional license shall be subject to approval by the state fire marshal. A provisional license may be issued for not more than six months to provide time to make necessary corrections. One additional successive six-month provisional license may be granted at the discretion of the licensing agency. A change of ownership during the provisional licensing period will not extend the time for the requirements to be met that were the basis for the provisional license, nor entitle the new owner to an additional provisional license.

Sec. 13. (a) Whenever the licensing agency finds a substantial failure to comply with the requirements, standards or rules and regulations established under this act, it shall make an order denying, suspending or revoking the license after notice and an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto. Any applicant or licensee may appeal such order in accordance with the provisions of the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

(b) Except as provided in subsection (c), whenever the licensing agency denies, suspends or revokes a license under this section, the applicant or licensee shall not be eligible to apply for a new license or reinstatement of a license for a period of two years from the date of denial, suspension or revocation.

(c) (1) Any applicant or licensee issued an emergency order by the licensing agency denying, suspending or revoking a license under this section may apply for a new license or reinstatement of a license at any time upon submission of a written waiver of any right conferred upon such applicant or licensee under the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, and the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto, to the licensing agency in a settlement agreement or other manner as approved by the licensing agency.

(2) Any licensee issued a notice of intent to take action by the licensing agency under this section may enter into a settlement agreement, as approved by the licensing agency, with the licensing agency at any time upon submission of a written waiver of any right conferred upon such licensee under the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, and the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

(d) In the event that a community mental health center accredited by the commission on accreditation of rehabilitation facilities or the joint commission, or another national accrediting body approved by the secretary for aging and disability services, loses accreditation by such ac-

crediting entity, the community mental health center shall immediately notify the Kansas department for aging and disability services.

Sec. 14. (a) As used in this section, the term “person” means any person who is an applicant for a license or who is the licensee and who has any direct or indirect ownership interest of 25% or more in the center, facility or hospital; or who is the owner, in whole or in part, of any mortgage, deed of trust, note or other obligation secured, in whole or in part, by such center, facility or hospital; or any of the property or assets of such center, facility or hospital; or who, if the center, facility, hospital or provider is organized as a corporation, is an officer or director of the corporation, or who, if the facility is organized as a partnership, is a partner.

(b) The licensing agency may deny a license to any person and may suspend or revoke the license of any person who:

(1) Has willfully or repeatedly violated any provision of law or rules and regulations adopted pursuant to this act or to article 59 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto;

(2) has had a license to operate a center, facility or hospital denied, suspended, revoked or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of such action of the other jurisdiction being conclusive evidence thereof;

(3) has failed or refused to comply with the medicaid requirements of title XIX of the social security act, or medicaid regulations under chapter IV of title 42 of the code of federal regulations, a certified copy of the record of such action being conclusive evidence thereof;

(4) has failed or refused to comply with the medicare requirements of chapter 7 of title 42 of the United States code, or medicare regulations under chapter IV of title 42 of the code of federal regulations, a certified copy of the record of such action being conclusive evidence thereof;

(5) has been convicted of a felony;

(6) has failed to assure that nutrition, medication or treatment of individuals, including the use of restraints, are in accordance with acceptable medical practices; or

(7) has aided, abetted, sanctioned or condoned any violation of law or rules and regulations adopted pursuant to this act or to article 59 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 15. (a) Any person operating a center, facility, hospital or a provider of services in this state without a license under this law shall be guilty of a class B misdemeanor. Any person who shall violate any other provision of this act or the requirements of any rules and regulations promulgated hereunder shall be guilty of a class B misdemeanor.

(b) Notwithstanding the existence or pursuit of any other remedy, the secretary, as the licensing agency, in the manner provided by the

Kansas judicial review act, may maintain an action in the name of the state of Kansas for injunction or other process against any person or agency to restrain or prevent the operation of a center, facility, hospital or provision of services without a license under this act.

Sec. 16. (a) A correction order may be issued by the secretary or the secretary's designee to a licensee whenever the state fire marshal or the marshal's representative or a duly authorized representative of the secretary inspects or investigates a center, facility, hospital or provider and determines that the center, facility, hospital or provider is not in compliance with the provisions of this act or article 59 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations promulgated thereunder and such non-compliance is likely to adversely affect the health, safety, nutrition or sanitation of the individuals or the public. 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) If upon re-inspection by the state fire marshal or the marshal's representative or a duly authorized representative of the secretary, it is found that the licensee has not corrected the deficiency or deficiencies specified in the correction order, the secretary may assess a civil penalty in an amount not to exceed \$500 per day, per deficiency, against the licensee for each day subsequent to the day following the time allowed for correction of the deficiency as specified in the correction order, the maximum assessment shall not exceed \$2,500. A written notice of assessment shall be served upon the licensee either personally or by certified mail, return receipt requested.

(c) Before the assessment of a civil penalty, the secretary 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 center, facility, hospital or provider to correct the violation; and
- (3) the history of compliance of the licensee of the center, facility, hospital or provider with the rules and regulations. If the secretary finds that some or all deficiencies cited in the correction order have also been cited against the center, facility, hospital or provider 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 may double the civil penalty assessed against the licensee, the maximum not to exceed \$5,000.

(d) 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 may file a certified copy of the notice of assessment with the clerk of the district court in the county where the center, facility, hospital or provider is located. The notice of assessment shall be enforced in the same manner as a judgment of the district court.

(e) All civil penalties collected pursuant to the provisions of this act shall be deposited in the state general fund.

Sec. 17. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.

Sec. 18. (a) Notwithstanding any other provision of law, the Kansas department for aging and disability services, solely or in consultation or cooperation with any other state agency, shall not enter into any agreement or take any action to outsource or privatize any operations or facilities of the Larned state hospital or Osawatomie state hospital without prior specific authorization by an act of the legislature or an appropriation act of the legislature.

(b) Nothing in this section shall prevent the Kansas department for aging and disability services from renewing, in substantially the same form as an existing agreement, any agreement in existence prior to March 4, 2016, for services at the Larned state hospital or the Osawatomie state hospital.

(c) Nothing in this section shall prevent the Kansas department for aging and disability services from entering into an agreement for services at the Larned state hospital or the Osawatomie state hospital with a different provider if such agreement is substantially similar to an agreement for services in existence prior to March 4, 2016.

Sec. 19. K.S.A. 2015 Supp. 39-968 is hereby amended to read as follows: 39-968. (a) To achieve a quality of life for Kansans with long-term care needs in an environment of choice that maximizes independent living capabilities and recognizes diversity, this act establishes a program which is intended to encourage a wide array of quality, cost-effective and affordable long-term care choices. This program shall be known as client assessment, referral and evaluation (CARE). The purposes of CARE is for data collection and individual assessment and referral to community-based services and appropriate placement in long-term care facilities.

(b) As used in this section:

(1) "Assessment services" means evaluation of an individual's health and functional status to determine the need for long-term care services and to identify appropriate service options which meet these needs utilizing the client assessment, referral and evaluation (CARE) form.

(2) “Health care data governing board” means the board abolished by K.S.A. 65-6803, and amendments thereto.

(3) “Medical care facility” shall have the meaning ascribed to such term under K.S.A. 65-425, and amendments thereto.

(4) “Nursing facility” shall have the meaning ascribed to such term under K.S.A. 39-923, and amendments thereto.

(5) “Secretary” means the secretary for aging and disability services.

(c) There is hereby established the client assessment, referral and evaluation (CARE) program. The CARE program shall be administered by the secretary for aging and disability services and shall be implemented on a phased-in basis in accordance with the provisions of this section.

(d) All rules and regulations adopted by the health care data governing board relating to client assessment, referral and evaluation (CARE) data entry form shall be deemed to be the rules and regulations of the *Kansas* department of health and environment until revised, revoked or nullified pursuant to law. The purpose of this form is for data collection and referral services. Such form shall be concise and questions shall be limited to those necessary to carry out the stated purposes. The client assessment, referral and evaluation (CARE) data entry form shall include, but not be limited to, the preadmission screening and annual resident review (PASARR) questions. ~~Prior to the adoption of the client assessment, referral and evaluation (CARE) data entry form by the health care data governing board,~~ The secretary for aging and disability services shall approve the *client assessment, referral and evaluation (CARE) data entry form*. The client assessment, referral and evaluation (CARE) data entry form shall be used by all persons providing assessment services.

(e) (1) Each individual prior to admission to a nursing facility as a resident of the facility shall receive assessment services to be provided by the secretary for aging and disability services, with the assistance of area agencies on aging, except: (A) Such assessment services shall be provided by a medical care facility to a patient of the medical care facility who is considering becoming a resident of a nursing facility upon discharge from the medical care facility; and (B) as authorized by rules and regulations adopted by the secretary for aging and disability services pursuant to subsection (i).

(2) The provisions of this subsection ~~(e)~~ shall not apply to any individual exempted from preadmission screening and annual resident review under ~~42 code of federal regulations~~ *C.F.R.* 483.106.

(f) The secretary for aging and disability services shall cooperate with the area agencies on aging providing assessment services under this section.

(g) The secretary for aging and disability services shall assure that each area agency on aging shall compile comprehensive resource information for use by individuals and agencies related to long-term care resources including all area offices of the Kansas department for children

and families and local health departments. This information shall include, but not be limited to, resources available to assist persons to choose alternatives to institutional care.

(h) Nursing facilities and medical care facilities shall make available information referenced in subsection (g) to each person seeking admission or upon discharge as appropriate. Any person licensed to practice the healing arts as defined in K.S.A. 65-2802, and amendments thereto, shall make the same resource information available to any person identified as seeking or needing long-term care. Each senior center and each area agency on aging shall make available such information.

(i) The secretary shall adopt rules and regulations to govern such matters as the secretary deems necessary for the administration of this act.

(j) (1) There is hereby established an eleven-member voluntary oversight council which shall meet monthly for the purpose of assisting the secretary for aging and disability services in restructuring the assessment and referral program in a manner consistent with this act and shall meet quarterly thereafter for the purpose of monitoring and advising the secretary regarding the CARE program. The council shall be advisory only, except that the secretary for aging and disability services shall file with the council each six months the secretary's response to council comments or recommendations.

(2) The secretary for aging and disability services shall appoint two representatives of hospitals, two representatives of nursing facilities, two consumers and two representatives of providers of home and community-based services. The secretary of health and environment and the secretary for children and families, or their designees, shall be members of the council in addition to the eight appointed members. The secretary for aging and disability services shall serve as chairperson of the council. The appointive members of the council shall serve at the pleasure of their appointing authority. Members of the voluntary oversight council shall not be paid compensation, subsistence allowances, mileage or other expenses as otherwise may be authorized by law for attending meetings, or subcommittee meetings, of the council.

(k) The secretary for aging and disability services shall report to the governor and to the legislature on or before December 31, 1995, and each year thereafter on or before such date, an analysis of the information collected under this section. In addition, the secretary for aging and disability services shall provide data from the CARE data forms to the *Kansas* department of health and environment. Such data shall be provided in such a manner so as not to identify individuals.

Sec. 20. K.S.A. 39-1807 and 75-3307c and K.S.A. 2015 Supp. 39-968 and 75-3307b are hereby repealed.

Sec. 21. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 17, 2016.

CHAPTER 106

HOUSE BILL No. 2739
(Amends Chapter 46)

AN ACT concerning state finances; implementation of a program service inventory, performance based budgeting system and integrated budget fiscal process; creating a budget stabilization fund; relating to state general fund revenue and expenditures; review of risk-based practices by the legislative budget committee; amending K.S.A. 75-3722, as amended by section 61 of 2016 Senate Bill No. 367, and 75-6704, as amended by section 62 of 2016 Senate Bill No. 367, and K.S.A. 2015 Supp. 75-3721 and repealing the existing sections; also repealing K.S.A. 2015 Supp. 76-12a25.

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

New Section 1. (a) On or before January 14, 2019, the secretary of administration, in consultation with the division of the budget, the office of revisor of statutes and the Kansas legislative research department, shall implement a budget process that accomplishes the following objectives:

(1) A program service inventory, to be complete on or before January 9, 2017. Such inventory shall include, but not be limited to, the following:

(A) Identification of agency programs and subprograms by objective, function and purpose;

(B) the state or federal statutory citation authorizing those programs, if any;

(C) identification of programs that are mandatory versus discretionary;

(D) a history of the programs, including interaction with other agency programs and objectives;

(E) state matching or other federal financial requirements;

(F) prioritization of the level of all programs and subprograms; and

(G) the consequence of not funding the program or subprogram.

(2) An integrated budget fiscal process, to be complete on or before January 6, 2018. Such process shall institute common accounting procedures consistent with budget development, budget approval, budget submission, through actual expenditures by fund.

(3) A performance based budgeting system, to be completed on or before January 14, 2019. Such budgeting system shall include, but not be limited to, the following:

(A) Incorporation of various outcome based performance measures, for state programs; and

(B) enhancement of the capability to compare program effectiveness across multiple state and political boundaries.

New Sec. 2. (a) On July 1, 2017, the budget stabilization fund is hereby established in the state treasury.

(b) On or before the 10th day of each month commencing July 1, 2017, the director of accounts and reports shall transfer from the state general fund to the budget stabilization fund interest earnings based on:

(1) The average daily balance of moneys in the budget stabilization fund, for the preceding month; and

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

(c) On and after July 1, 2017, no moneys in the budget stabilization fund shall be expended pursuant to this subsection unless the expenditure either has been approved by an appropriation or other act of the legislature or has been approved 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. 75-3711(c), and amendments thereto.

(d) (1) During the 2016 interim between regular sessions of the legislature, the legislative budget committee shall study and review the policy concerning the balance of, transfers to and expenditures from the budget stabilization fund. The legislative budget committee study and review shall include, but not be limited to, the following:

(A) Risk-based budget stabilization fund practices utilized in other states.

(B) The appropriate number of years to review the state general fund:

(i) Revenue variances from projections; and

(ii) expenditure variances from budgets.

(C) The entity to certify the amount necessary in the budget stabilization fund to maintain the appropriate risk-based balance.

(D) Plan to fund the budget stabilization fund.

(E) Process and circumstances to reach the appropriate risk-based balance, including the amount of risk that is acceptable.

(F) Circumstances under which expenditures may be made from the fund.

(2) The legislative budget committee may make recommendations and introduce legislation as it deems necessary to implement such recommendations.

(3) Notwithstanding the provisions of sections 52 and 53 of chapter 104 of the 2015 Session Laws of Kansas, section 18 of 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016 regular session of the legislature, the legislative budget committee may meet not more than 10 days to study and review such policies as determined by the chairperson of the committee.

Sec. 3. K.S.A. 2015 Supp. 75-3721 is hereby amended to read as follows: 75-3721. (a) On or before the eighth calendar day of each regular legislative session, the governor shall submit the budget report to the legislature, except that in the case of the regular legislative session immediately following the election of a governor who was elected to the office of governor for the first time, that governor shall submit the budget report to the legislature on or before the 21st calendar day of that regular legislative session.

(b) The budget report of the governor shall be set up in three parts, the nature and contents of which shall include the following:

(1) Part one shall consist of a budget message by such governor, including the governor's recommendations with reference to the fiscal policy of the state government for the current fiscal year and the ensuing fiscal year, describing the important features of the budget plan for each of the fiscal years included, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income for the current fiscal year and the ensuing fiscal year, with the basis and factors upon which the estimates were made, and the means of financing the budget plan for each of the fiscal years included, compared with the corresponding figures for at least the last completed fiscal year, and the director of the budget shall prepare the figures for the governor for such comparisons.

(A) The budget plan shall not include: (i) Any proposed expenditures of anticipated income attributable to proposed legislation that would provide additional revenues from either current or new sources of revenue; or (ii) any proposed expenditures of moneys in the ending balance in the state general fund required by K.S.A. 75-6702, and amendments thereto.

(B) The general budget summary may be supported by explanatory schedules or statements, classifying the expenditures contained therein by state agencies, objects, and funds, and the income by state agencies, funds, sources and types. The general budget summary shall include all special or fee funds as well as the state general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(2) Part two shall embrace the detailed budget estimates for each of the fiscal years included, both of expenditures and revenues, showing the requests of the state agencies, if any, and the governor's recommendations thereon, which shall include amounts for payments by the state board of regents pursuant to K.S.A. 75-4364, and amendments thereto. It shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service for at least the last completed fiscal year, and the estimated amount for the current fiscal year and for each of the ensuing fiscal years included, the debt authorized and unissued, and the condition of the sinking funds.

(3) Part three shall consist of a draft of a legislative measure or measures reflecting the governor's budget for all of the fiscal years included in the budget report.

(c) The division of the budget shall compile a children's budget document consisting of the information contained in agency budget estimates regarding programs that provide services for children and their families. Such document shall be provided to the Kansas children's cabinet established by K.S.A. 38-1901, and amendments thereto, and other persons or entities on request.

(d) The division of the budget, upon request, shall furnish the governor or the legislature with any further information required concerning the budget.

(e) Nothing in this section shall be construed to restrict or limit the privilege of the governor to present supplemental budget messages or amendments to previous budget messages, which may include proposals for expenditure of new or increased sources of revenue derived from proposed legislation.

(f) The budget estimate for the judicial branch of state government as submitted to the director of the budget pursuant to K.S.A. 20-158, and amendments thereto, shall be included in the governor's budget report.

(g) The division of the budget shall compile a Kansas homeland security budget document consisting of the information contained in agency budget estimates under ~~subsection (a)(3) of~~ K.S.A. 75-3717(a)(3), and amendments thereto. Such document shall be provided to the house of representatives committee on appropriations, the senate committee on ways and means and such other committees upon request.

(h) *Commencing with fiscal year 2018, the ending balance in the state general fund in any fiscal year shall include the unexpended and unencumbered balances in the:*

- (1) *State general fund; and*
- (2) *budget stabilization fund, established in section 2, and amendments thereto.*

Sec. 4. K.S.A. 75-3722, as amended by section 61 of 2016 Senate Bill No. 367, 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~~ *the secretary* 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. *When reviewing the resources of the general fund or any special revenue fund for the purposes of issuing an allotment, the secretary shall not take into consideration the balance in the budget stabilization fund.*

(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, *of 2016 Senate Bill No. 367*, 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~~ *review*.

Sec. 5. K.S.A. 75-6704, as amended by section 62 of 2016 Senate Bill No. 367, 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. *When estimating the amount of the unencumbered ending balance of moneys in the state general fund for the purposes of such certification, the director of the budget shall not take into consideration the balance in the budget stabilization fund.*

(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 K.S.A. 75-3711c(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 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 K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement sys-

tem 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. 6. K.S.A. 75-3722, as amended by section 61 of 2016 Senate Bill No. 367, and 75-6704, as amended by section 62 of 2016 Senate Bill No. 367, and K.S.A. 2015 Supp. 75-3721 and 76-12a25 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 17, 2016.

CHAPTER 107

Senate Substitute for HOUSE BILL No. 2365

AN ACT concerning skilled nursing care facilities; relating to the quality care assessment; rate and sunset thereof; quality care improvement panel membership; reporting requirements; amending K.S.A. 2015 Supp. 75-7435 and repealing the existing section.

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

New Section 1. On and after July 1, 2016, notwithstanding the provisions of section 109 of chapter 104 of the 2015 Session Laws of Kansas, the provisions of K.S.A. 2015 Supp. 75-5958, and amendments thereto, shall be in full force and effect.

Sec. 2. K.S.A. 2015 Supp. 75-7435 is hereby amended to read as follows: 75-7435. (a) As used in this section unless the context requires otherwise:

(1) Words and phrases have the meanings respectively ascribed thereto by K.S.A. 39-923, and amendments thereto.

(2) “Skilled nursing care facility” means a licensed nursing facility, nursing facility for mental health as defined in K.S.A. 39-923, and amendments thereto, or a hospital long-term care unit licensed by the department of health and environment, providing skilled nursing care, but shall not include the Kansas soldiers’ home or the Kansas veterans’ home.

(3) “Licensed bed” means those beds within a skilled nursing care facility which the facility is licensed to operate.

(4) “Agent” means the Kansas department for aging and disability services.

(5) “Continuing care retirement facility” means a facility holding a certificate of registration issued by the commissioner of insurance pursuant to K.S.A. 40-2235, and amendments thereto.

(b) (1) Except as otherwise provided in this section and in subsection (f), there is hereby imposed and the secretary of health and environment shall assess an annual assessment per licensed bed, hereinafter called a quality care assessment, on each skilled nursing care facility. The assessment on all facilities in the aggregate shall be an amount fixed by rules and regulations of the secretary of health and environment, shall not exceed ~~\$1,950~~ \$4,908 annually per licensed bed, shall be imposed as an amount per licensed bed and shall be imposed uniformly on all skilled nursing care facilities except that the assessment rate for skilled nursing care facilities that are part of a continuing care retirement facility, small skilled nursing care facilities and high medicaid volume skilled nursing care facilities shall not exceed 1/6 of the actual amount assessed all other skilled nursing care facilities. No rules and regulations of the secretary of health and environment shall grant any exception to or exemption from the quality care assessment. The assessment shall be paid quarterly, with one fourth of the annual amount due by the 30th day after the end of the month of each calendar quarter. The secretary of health and environment is authorized to establish delayed payment schedules for skilled nursing care facilities which are unable to make quarterly payments when due under this section due to financial difficulties, as determined by the secretary of health and environment. As used in this ~~subsection (b)(1) paragraph~~, the terms “small skilled nursing care facilities” and “high medicaid volume skilled nursing care facilities” shall have the meanings ascribed thereto by the secretary of health and environment by rules and regulations, except that the definition of small skilled nursing care facility shall not be lower than 40 beds.

(2) Beds licensed after July 1 each year shall pay a prorated amount of the applicable annual assessment so that the assessment applies only for the days such new beds are licensed. The proration shall be calculated by multiplying the applicable assessment by the percentage of days the beds are licensed during the year. Any change which reduces the number

of licensed beds in a facility shall not result in a refund being issued to the skilled nursing care facility.

(3) If an entity conducts, operates or maintains more than one licensed skilled nursing care facility, the entity shall pay the nursing facility assessment for each facility separately. No skilled nursing care facility shall create a separate line-item charge for the purpose of passing through the quality care assessment to residents. No skilled nursing care facility shall be guaranteed, expressly or otherwise, that any additional moneys paid to the facility under this section will equal or exceed the amount of its quality care assessment.

(4) The payment of the quality care assessment to the secretary of health and environment shall be an allowable cost for medicaid reimbursement purposes. A rate adjustment pursuant to ~~paragraph (5) of subsection (d)(5)~~ shall be made effective on the date of imposition of the assessment, to reimburse the portion of this cost imposed on medicaid days.

(5) The secretary of health and environment shall seek a waiver from the United States department of health and human services to allow the state to impose varying levels of assessments on skilled nursing care facilities based on specified criteria. It is the intent of the legislature that the waiver sought by the secretary of health and environment be structured to minimize the negative fiscal impact on certain classes of skilled nursing care facilities.

(c) Each skilled nursing care facility shall prepare and submit to the secretary of health and environment any additional information required and requested by the secretary of health and environment to implement or administer the provisions of this section. Each skilled nursing care facility shall prepare and submit quarterly to the secretary for aging and disability services the rate the facility charges to private pay residents, and the secretary shall cause this information to be posted on the web site of the department for aging and disability services.

(d) (1) There is hereby created in the state treasury the quality care fund, which shall be administered by the secretary of health and environment. All moneys received for the assessments imposed pursuant to subsection (b), including any penalty assessments imposed thereon pursuant to subsection (e), shall be remitted to the state treasurer in accordance with 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 quality care fund. All expenditures from the quality care 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 health and environment or the secretary's agent.

(2) All moneys in the quality care fund shall be used to finance initiatives to maintain or improve the quantity and quality of skilled nursing

care in skilled nursing care facilities in Kansas. No moneys credited to the quality care fund shall be transferred to or otherwise revert to the state general fund at any time. Notwithstanding the provisions of any other law to the contrary, if any moneys credited to the quality care fund are transferred or otherwise revert to the state general fund, 30 days following the transfer or reversion the quality care assessment shall terminate and the secretary of health and environment shall discontinue the imposition, assessment and collection of the assessment. Upon termination of the assessment, all collected assessment revenues, including the moneys inappropriately transferred or reverting to the state general fund, less any amounts expended by the secretary of health and environment, shall be returned on a pro rata basis to skilled nursing care facilities that paid the assessment.

(3) Any moneys received by the state of Kansas from the federal government as a result of federal financial participation in the state medicaid program that are derived from the quality care assessment shall be deposited in the quality care fund and used to finance actions to maintain or increase healthcare in skilled nursing care facilities.

(4) Moneys in the fund shall be used exclusively for the following purposes:

(A) To pay administrative expenses incurred by the secretary of health and environment or the agent in performing the activities authorized by this section, except that such expenses shall not exceed a total of 1% of the aggregate assessment funds collected pursuant to subsection (b) for the prior fiscal year;

(B) to increase nursing facility payments to fund covered services to medicaid beneficiaries within medicare upper payment limits, as may be negotiated;

(C) to reimburse the medicaid share of the quality care assessment as a pass-through medicaid allowable cost;

(D) to restore the medicaid rate reductions implemented January 1, 2010;

(E) to restore funding for fiscal year 2010, including rebasing and inflation to be applied to rates in fiscal year 2011;

(F) the remaining amount, if any, shall be expended first to increase the direct health care costs center limitation up to 150% of the case mix adjusted median, and then, if there are remaining amounts, for other quality care enhancement of skilled nursing care facilities as approved by the quality care improvement panel but shall not be used directly or indirectly to replace existing state expenditures for payments to skilled nursing care facilities for providing services pursuant to the state medicaid program.

(5) Any moneys received by a skilled nursing care facility from the quality care fund shall not be expended by any skilled nursing care facility to provide for bonuses or profit-sharing for any officer, employee or par-

ent corporation but may be used to pay to employees who are providing direct care to a resident of such facility.

(6) Adjustment payments may be paid quarterly or within the daily medicaid rate to reimburse covered medicaid expenditures in the aggregate within the upper payment limits.

(7) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the quality care fund interest earnings based on:

(A) The average daily balance of moneys in the quality care fund for the preceding month; and

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

(e) If a skilled nursing care facility fails to pay the full amount of the quality care assessment imposed pursuant to subsection (b), when due and payable, including any extensions of time granted under that subsection, the secretary of health and environment shall assess a penalty in the amount of the lesser of \$500 per day or 2% of the quality care assessment owed for each day the assessment is delinquent. The secretary of health and environment is authorized to establish delayed payment schedules for skilled nursing care facilities that are unable to make installment payments when due under this section because of financial difficulties, as determined by the secretary of health and environment.

(f) (1) The secretary of health and environment shall assess and collect quality care assessments imposed pursuant to subsection (b), including any penalty assessments imposed thereon pursuant to subsection (e), from skilled nursing care facilities on and after July 1, 2010, except that no assessments or penalties shall be assessed under subsections (a) through (h) until:

(A) An amendment to the state plan for medicaid, which increases the rates of payments made to skilled nursing care facilities for providing services pursuant to the federal medicaid program and which is proposed for approval for purposes of subsections (a) through (h) is approved by the federal government in which case the initial assessment is due no earlier than 60 days after state plan approval; and

(B) the skilled nursing care facilities have been compensated retroactively within 60 days after state plan approval at the increased rate for services provided pursuant to the federal medicaid program for the period commencing on and after July 1, 2010.

(2) The secretary of health and environment shall implement and administer the provisions of subsections (a) through (h) in a manner consistent with applicable federal medicaid laws and regulations. The secretary of health and environment shall seek any necessary approvals by the federal government that are required for the implementation of subsections (a) through (h).

(3) The provisions of subsections (a) through (h) shall be null and void and shall have no force and effect if one of the following occur:

(A) The medicaid plan amendment, which increases the rates of payments made to skilled nursing care facilities for providing services pursuant to the federal medicaid program and which is proposed for approval for purposes of subsections (a) through (h) is not approved by the federal centers for medicare and medicaid services;

(B) the rates of payments made to skilled nursing care facilities for providing services pursuant to the federal medicaid program are reduced below the rates calculated on December 31, 2009, increased by revenues in the quality care fund and matched by federal financial participation and rebasing as provided for in K.S.A. 2015 Supp. 75-5958, and amendments thereto;

(C) any funds are utilized to supplant funding for skilled nursing care facilities as required by subsection (g);

(D) any funds are diverted from those purposes set forth in subsection (d)(4); or

(E) upon the governor signing, or allowing to become law without signature, legislation which by proviso or otherwise directs any funds from those purposes set forth in subsection (d)(4) or which would propose to suspend the operation of this section.

(g) On and after July 1, 2010, reimbursement rates for skilled nursing care facilities shall be restored to those in effect during December 2009. No funds generated by the assessments or federal funds generated therefrom shall be utilized for such restoration, but such funds may be used to restore the rate reduction in effect from January 1, 2010, to June 30, 2010.

(h) Rates of reimbursement shall not be limited by private pay charges.

(i) If the provisions of subsections (a) through (h) are repealed, expire or become null and void and have no further force and effect, all moneys in the quality care fund which were paid under the provisions of subsections (a) through (h) shall be returned to the skilled nursing care facilities which paid such moneys on the basis on which such payments were assessed and paid pursuant to subsections (a) through (h).

(j) The department of health and environment may adopt rules and regulations necessary to implement the provisions of this section.

(k) For purposes of administering and selecting the reimbursements of moneys in the quality care assessment fund, the quality care improvement panel is hereby established. The panel shall consist of the following members: Two persons appointed by ~~leadingage Kansas homes and services for the aging~~; two persons appointed by the Kansas health care association; one person appointed by Kansas advocates for better care; one person appointed by the Kansas hospital association; one person appointed by the governor who is a member of the Kansas adult care ex-

ecutives association; one person appointed by the governor who is a skilled nursing care facility resident or the family member of such a resident; one person appointed by the Kansas foundation for medical care; one person appointed by the governor from the department for aging and disability services; ~~and~~ one person appointed by the governor from the department of health and environment; *one person appointed by the president of the senate who is affiliated with an organization representing and advocating the interests of retired persons in Kansas; and one person appointed by the speaker of the house of representatives who is a volunteer with the office of the state long-term care ombudsman established by the long-term care ombudsman act.* The person appointed by the governor from the department for aging and disability services and the person appointed by the governor from the department of health and environment shall be nonvoting members of the panel. The panel shall meet as soon as possible subsequent to the effective date of this act and shall elect a chairperson from among the members appointed by the trade organizations specified in this subsection. The members of the quality care improvement panel shall serve without compensation or expenses. The quality care improvement panel shall report annually on or before January 10 to the ~~legislature~~ *senate committees on public health and welfare and ways and means, the house committees on appropriations and health and human services and the Robert G. (Bob) Bethell joint committee on home and community based services and KanCare oversight concerning the progress to reduce the incidence of antipsychotic drug use in elders with dementia, participation in the nursing facility quality and efficiency outcome incentive factor, participation in the culture change and person-centered care incentive program, annual resident satisfaction ratings for Kansas skilled nursing care facilities and the activities of the panel during the preceding calendar year and any recommendations which the panel may have concerning the administration of and expenditures from the quality care assessment fund.*

(l) The provisions of this section shall expire on July 1, ~~2016~~ 2020.

Sec. 3. K.S.A. 2015 Supp. 75-7435 is hereby repealed.

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

Approved May 17, 2016.

CHAPTER 108

Senate Substitute for HOUSE BILL No. 2049

AN ACT concerning intellectual disability; relating to the definition of significantly subaverage general intellectual functioning; amending K.S.A. 2015 Supp. 76-12b01 and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 76-12b01 is hereby amended to read as follows: 76-12b01. When used in this act:

(a) “Adaptive behavior” means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of that person’s age, cultural group and community.

(b) “Care” means supportive services, including, but not limited to, provision of room and board, supervision, protection, assistance in bathing, dressing, grooming, eating and other activities of daily living.

(c) “Institution” means a state institution for people with intellectual disability including the following institutions: Kansas neurological institute and Parsons state hospital.

(d) “Intellectual disability” means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior ~~and manifested during the period from birth to age 18.~~

(e) “Respite care” means temporary, short-term care not exceeding 90 days per calendar year to provide relief from the daily pressures involved in caring for a person with intellectual disability.

(f) “Restraint” means the use of a totally enclosed crib or any material to restrict or inhibit the free movement of one or more limbs of a person except medical devices which limit movement for examination, treatment or to insure the healing process.

(g) “Seclusion” means being placed alone in a locked room where the individual’s freedom to leave is thereby restricted and where such placement is not under continuous observation.

(h) “Secretary” means the secretary for aging and disability services or the designee of the secretary.

(i) “Significantly subaverage general intellectual functioning” ~~means~~ *may be established by performance which is two or more standard deviations from the mean score on a standardized intelligence test specified by the secretary. Such standardized intelligence test shall take into account the standard error of measurement, and subaverage general intellectual functioning may be established by means in addition to standardized intellectual testing. The amendments made to this subsection by this act shall be construed and applied retroactively.*

(j) “Superintendent” means the chief administrative officer of the institution or the designee of the chief administrative officer.

(k) “Training” means the provision of specific environmental, physi-

cal, mental, social and educational interventions and therapies for the purpose of halting, controlling or reversing processes that cause, aggravate or complicate malfunctions or dysfunctions of development.

Sec. 2. K.S.A. 2015 Supp. 76-12b01 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 17, 2016.

CHAPTER 109

Senate Substitute for HOUSE BILL No. 2509

AN ACT concerning the department of commerce; relating to administrative cost recovery fees for department-administered community finance, economic development and tax incentive programs; amending K.S.A. 74-5060 and K.S.A. 2015 Supp. 12-17,164 and 74-50,150 and repealing the existing sections.

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

New Section 1. (a) For purposes of recovering application processing, oversight, administrative and other costs, the secretary of commerce may assess an application fee of up to \$750 upon applications for economic development incentive programs administered wholly or in part by the secretary, including, but not limited to, the Kansas industrial training and retraining programs, K.S.A. 74-5065 et seq., and amendments thereto, the high performance incentive program, K.S.A. 74-50,131 et seq., and amendments thereto, the promoting employment across Kansas act, K.S.A. 2015 Supp. 74-50,210 et seq., and amendments thereto, and the job creation program fund, K.S.A. 2015 Supp. 74-50,224 et seq., and amendments thereto. The secretary may adopt rules and regulations to implement the provisions of this subsection.

(b) The secretary of commerce shall remit all moneys received by or for the secretary from such application fees and collected 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 economic development incentive program application fee fund, which is hereby established in the state treasury and which may be used for costs to the department of commerce arising from administering such economic development incentive programs. All expenditures from the economic development incentive program application fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

Sec. 2. K.S.A. 2015 Supp. 12-17,164 is hereby amended to read as follows: 12-17,164. (a) The governing body of a city may establish one or more STAR bond projects in any area within such city or wholly outside the boundaries of such city. A STAR bond project wholly outside the boundaries of such city must be approved by the board of county commissioners by the passage of a county resolution.

The governing body of a county may establish one or more STAR bond projects in any unincorporated area of the county.

The projects shall be eligible for financing by special obligation bonds payable from revenues described by ~~subsection (a)(1) of~~ K.S.A. 2015 Supp. 12-17,169(a)(1), and amendments thereto.

(b) Each STAR bond project shall first be approved by the secretary, if the secretary determines that the proposed project or complex sufficiently promotes, stimulates and develops the general and economic welfare of the state as described in K.S.A. 2015 Supp. 12-17,160, and amendments thereto. The secretary, upon approving the project, may approve such financing in an amount not to exceed 50% of the total costs including all project costs and any other costs related to the project. The proceeds of such STAR bond financing may only be used to pay for incurred project costs.

(c) For a city proposing to finance a major motorsports complex pursuant to ~~subsection (a)(1)(C) or (a)(1)(E) of~~ K.S.A. 2015 Supp. 12-17,169(a)(1)(C) or (a)(1)(E), and amendments thereto, the secretary, upon approving the project, may approve such financing in an amount not to exceed 50% of the STAR bond project costs.

(d) The secretary may approve a STAR bond project located in a STAR bond project district established by a city prior to May 1, 2003.

(e) A project shall not be granted to any business that proposes to relocate its business from another area of the state into such city or county, for the purpose of consideration for a STAR bond project provided by K.S.A. 2015 Supp. 12-17,160 et seq., and amendments thereto.

(f) A project shall not be approved by the secretary if the market study required by K.S.A. 2015 Supp. 12-17,166, and amendments thereto, indicates a substantial negative impact upon businesses in the project or complex market area or the granting of such project or complex would cause a default in the payment of any outstanding special obligation bond payable from revenues authorized pursuant to ~~subsection (a)(1) of~~ K.S.A. 2015 Supp. 12-17,169(a)(1), and amendments thereto.

(g) The maximum maturity of special obligation bonds payable primarily from revenues described by ~~subsection (a)(1) of~~ K.S.A. 2015 Supp. 12-17,169(a)(1), and amendments thereto, to finance STAR bond projects pursuant to this section shall not exceed 20 years.

(h) The secretary shall not approve any application for STAR bond project financing which is submitted by a city or county more than one

year after the STAR bond project district in which the STAR bond project is located has been established.

(i) *For the purpose of recovering the costs of the secretary and the department arising from fulfilling administrative, review, approval, oversight and other responsibilities under the STAR bonds financing act and from providing assistance to cities, counties and private businesses in relation to STAR bond projects, the secretary may assess an administrative fee of up to 1%, not to exceed \$200,000, of the amount of the special obligation bonds payable from revenues described by K.S.A. 2015 Supp. 12-17,169(a)(1), and amendments thereto, issued or reissued for STAR bond projects. The secretary may also recover any actual costs incurred by the secretary in excess of the fee. The fee, and any actual costs incurred by the secretary in excess of the fee, shall be paid to the secretary from the proceeds of such bonds. All such moneys received by the secretary 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 STAR bond administrative fee fund, which is hereby created in the state treasury. All expenditures from the STAR bond administrative fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or a person or persons designated by the secretary.*

Sec. 3. K.S.A. 74-5060 is hereby amended to read as follows: 74-5060.

(a) The secretary shall determine the state ceiling for each calendar year in accordance with the formula provided therefor in the code and, except as otherwise provided in K.S.A. 74-5063, and amendments thereto, shall allocate the state ceiling among governmental issuers in accordance with the provisions of this section.

(b) The secretary shall reserve until October 15 of each year: (1) An amount equal to \$5,000,000 for allocation in accordance with the provisions of section 141(b)(5) of the code for private activity use of a portion of the proceeds of bonds issued by governmental issuers; (2) an amount equal to \$5,000,000 for allocation for qualified student loan bonds as defined in section 144(b) of the code; and (3) an amount equal to \$25,000,000 for allocation for qualified small issue bonds as defined in section 144(a) of the code. On and after October 15 of each year, any portion of the state ceiling remaining unused or uncommitted shall be available for allocation to governmental issuers by the secretary without regard to the reservations provided for in this subsection.

(c) Prior to any issuance of private activity bonds subject to the state ceiling, a governmental issuer shall submit to the secretary on a form prescribed by the secretary a written application for an allocation of the state ceiling for such issue.

(d) Subject to the provisions of subsection (b), the secretary shall approve each properly filed application for an allocation for qualified small issue bonds of \$5,000,000 or less on the basis of the chronological order of receipt of applications. If an application is for an allocation in excess of \$5,000,000, the secretary may approve the total amount, approve a partial amount or reject the application.

(e) Within five business days after receipt of an application for an allocation, the secretary shall notify the governmental issuer in writing that: (1) The application has been approved and shall specify the amount approved, ~~or~~; (2) the application has been denied; ~~or~~; or (3) the application has been placed on hold pending receipt of additional information with respect to the application or pending a review of the effect approval of the application will have on the state ceiling.

(f) Unless an extension or a carryforward election is approved by the secretary, an approved allocation, or any portion thereof, that is not utilized by the issuance of the private activity bonds for which the allocation was approved shall expire at the earliest of: (1) The time of 11:59 p.m. on the date which is 60 days after the date the notification of the approved allocation is mailed to the governmental issuer or on such other date as the secretary may specify in the notification, ~~or~~; (2) the date upon which the approved allocation is voluntarily surrendered to the secretary by the governmental issuer; ~~or~~; or (3) the time of 11:59 p.m. on December 1 of the calendar year in which the allocation was approved.

(g) A governmental issuer may request an extension of the expiration date of an approved allocation by filing a written application therefor with the secretary. Any such application must be received by the secretary not less than two days prior to the expiration date of the approved allocation. In such instances, the secretary may approve an extension for a period ending at the earliest of: (1) The time of 11:59 p.m. on the date which is 30 days after the initial expiration date, ~~or~~; (2) the date upon which the approved allocation is voluntarily surrendered to the secretary by the governmental issuer; ~~or~~; or (3) the time of 11:59 p.m. on December 1 of the calendar year in which the allocation was approved. The secretary shall notify the governmental issuer within five business days after receipt of the application if the request for extension has been approved or denied. If the private activity bonds for which an extension has been approved are not issued on or before the last day of the extension period approved by the secretary, the approved allocation shall expire unless a carryforward election is approved by the secretary.

(h) Notwithstanding any other provision of this section, if an approved allocation or an approved extension period expires on December 1, the secretary may grant an extension, or a further extension, for any period ending not later than the time of 11:59 p.m. on December 31 of the calendar year in which the allocation was approved.

(i) The secretary shall provide to the governmental issuer on or prior

to the date of issuance of any private activity bonds for which an approved allocation has not expired a certification that such bonds meet the requirements of section 146 of the code.

(j) On or after December 16 of each calendar year, the secretary may approve a carryforward election with respect to an approved allocation or any approved extension if the governmental issuer, in writing: (1) Requests such action; and (2) indicates that the private activity bonds for which the allocation was approved cannot be issued during the calendar year in which the allocation was approved. Such approved carryforward election shall be made by the governmental issuer by means of a statement, signed by a duly authorized official of such issuer. Such statement shall be filed with the secretary and with the internal revenue service in accordance with section 146(f) of the code. A governmental issuer may elect to carryforward such issuing authority only for qualified mortgage bonds, mortgage credit certificates, qualified student loan bonds, qualified redevelopment bonds, as defined in sections 142, 143 and 144 of the code, or for bonds to finance a project described in section 141(e)(1)(A) of the code. In no event shall such carryforward be effective for a period longer than permitted by section 146(f) of the code.

(k) If an approved allocation expires, a governmental issuer may submit another application for an allocation of the state ceiling for the same purpose for which the expired allocation was approved. Any such applications shall be reviewed in order of receipt with no preference or priority being given as a result of the prior application and allocation.

(l) (1) For purposes of recovery of program oversight and administrative costs, the secretary may assess an administrative application fee of up to 1%, not to exceed \$200,000, of the private activity bond issuance amount requested. The secretary may also recover any actual costs incurred by the secretary in excess of the fee. At the secretary's discretion, the fee, and any actual costs incurred by the secretary in excess of the fee, may be made payable by the governmental issuer or out of the bond proceeds or both. If assessed in whole or in part upon the governmental issuer, the governmental issuer may require payment of such amount or a portion thereof from the conduit borrower or borrowers if requiring such payment from the conduit borrower or borrowers is approved by the secretary. In no case shall the fee and any actual costs in excess of the fee assessed by the secretary exceed applicable limitations imposed by the code. The secretary may issue rules and regulations to implement the provisions of this subsection.

(2) The secretary shall remit all moneys received by or for the secretary from such administrative application fees, and any actual costs incurred by the secretary in excess of the fee, and collected under this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state

treasury to the credit of the private activity bond administration fee fund, which is hereby established in the state treasury. All expenditures from the private activity bond administration fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

Sec. 4. K.S.A. 2015 Supp. 74-50,150 is hereby amended to read as follows: 74-50,150. (a) There is hereby established in the state treasury the \$5,000,000 state affordable airfare fund, which shall be known and referred to as the state affordable airfare fund and which shall be administered by the secretary of commerce. In accordance with the provisions of appropriation acts, moneys shall be transferred to the state affordable airfare fund from the state general fund or one or more special revenue funds in the state treasury as specified by appropriation acts. *Subject to appropriation acts, the secretary is authorized to designate or deduct from such moneys transferred to the state affordable airfare fund an annual administrative fee not to exceed 2% of such moneys transferred, which administrative fee shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and the entire amount deposited by the state treasurer in the state treasury to the credit of the state affordable airfare administrative fee fund, which is hereby created in the state treasury.* All expenditures from the state affordable airfare fund shall be for the program to provide more air flight options, more competition for air travel and affordable air fares for Kansas, including a regional airport in western Kansas. All expenditures from the state affordable airfare 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 commerce or the designee of the secretary.

(b) The moneys credited to the state affordable airfare fund shall be disbursed as an annual grant by the secretary of commerce to the regional economic area partnership (REAP) and shall be used for the development and implementation of a program to provide more air flight options, more competition for air travel and affordable air fares for Kansas, including a regional airport in western Kansas. Each annual grant shall be matched by moneys received by the regional economic area partnership (REAP) from local units of government or private entities on the basis of 75% from the state affordable airfare fund to 25% from local units of government or private entities.

(c) Annually, beginning by January 15, 2008, at the beginning of each regular session of the legislature thereafter, the regional economic area partnership (REAP) shall evaluate and present a report on the effectiveness of this program to the house of representatives committee on appropriations and the senate committee on ways and means. Commencing

with the regular session in 2008, the regional economic area partnership (REAP) shall prepare and submit a report on the expenditures of the state annual grant and local matching moneys under the program and the results obtained for such expenditures to the legislature at the beginning of each regular session.

(d) During the interim between regular sessions of the legislature, commencing with the 2006 legislative interim period, the legislative budget committee shall study and review the activities of the regional economic area partnership (REAP) under the program to provide more air flight options, more competition for air travel and affordable air fares for Kansas, including a regional airport in western Kansas.

(e) All expenditures from the state affordable airfare administrative fee fund shall be for the purpose of recovering costs incurred by the secretary in the course of administering the state affordable airfare fund 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 secretary or by a person or persons designated by the secretary.

Sec. 5. K.S.A. 74-5060 and K.S.A. 2015 Supp. 12-17,164 and 74-50,150 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 17, 2016.

CHAPTER 110

Senate Substitute for HOUSE BILL No. 2112

AN ACT concerning corporations; relating to the Kansas general corporation code; business entity standard treatment act; amending K.S.A. 17-1289, 17-2036, 17-2718, 17-4634, 17-6001, 17-6004, 17-6006, 17-6007, 17-6008, 17-6009, 17-6010, 17-6101, 17-6102, 17-6104, 17-6106, 17-6301, 17-6302, 17-6304, 17-6401, 17-6402, 17-6404, 17-6405, 17-6407, 17-6408, 17-6409, 17-6410, 17-6412, 17-6413, 17-6414, 17-6415, 17-6416, 17-6420, 17-6422, 17-6425, 17-6426, 17-6501, 17-6502, 17-6503, 17-6505, 17-6506, 17-6508, 17-6509, 17-6510, 17-6512, 17-6513, 17-6514, 17-6515, 17-6516, 17-6517, 17-6518, 17-6521, 17-6522, 17-6523, 17-6603, 17-6605, 17-6701, 17-6702, 17-6703, 17-6705, 17-6706, 17-6707, 17-6708, 17-6710, 17-6712, 17-6801, 17-6803, 17-6804, 17-6805, 17-6805a, 17-6807, 17-6808, 17-6809, 17-6810, 17-6811, 17-6812, 17-6813, 17-6902, 17-6903, 17-6904, 17-6905, 17-6906, 17-6907, 17-6908, 17-6909, 17-6910, 17-6911, 17-6913, 17-7001, 17-7003, 17-7101, 17-7102, 17-7201, 17-7203, 17-7204, 17-7205, 17-7206, 17-7208, 17-7209, 17-7211, 17-7212, 17-7213, 17-7215, 17-7302, 17-7305, 17-7307, 17-7404, 17-7503, 17-7504, 17-7505, 17-7510 and 17-7512 and K.S.A. 2015 Supp. 17-6002, 17-6305, 17-6601, 17-6602, 17-7002, 17-7207, 17-7506, 17-76,139, 17-7903, 17-7908, 17-7918, 17-7919, 17-7924, 17-7925, 17-7927, 17-7928, 17-7929, 17-7931, 17-7934, 56-1a606, 56-1a607, 56a-1201 and 56a-1202 and repealing the existing sections; also repealing K.S.A. 17-12,100, 17-12,101, 17-12,102, 17-12,103, 17-12,104 and 17-6704.

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

New Section 1. (a) Any civil action to interpret, apply, enforce or determine the validity of the provisions of the following may be brought in the district court, except to the extent that a statute confers exclusive jurisdiction on a court, agency or tribunal other than the district court:

- (1) The articles of incorporation or the bylaws of a corporation;
 - (2) any instrument, document or agreement by which a corporation creates or sells, or offers to create or sell, any of its stock, or any rights or options respecting its stock;
 - (3) any written restrictions on the transfer, registration of transfer or ownership of securities under K.S.A. 17-6426, and amendments thereto;
 - (4) any proxy under K.S.A. 17-6502 or 17-6505, and amendments thereto;
 - (5) any voting trust or other voting agreement under K.S.A. 17-6508, and amendments thereto;
 - (6) any agreement, certificate of merger or consolidation, or certificate of ownership and merger governed by K.S.A. 17-6701 through 17-6703 or 17-6705 through 17-6708, and amendments thereto;
 - (7) any certificate of conversion under K.S.A. 17-6713, and amendments thereto; or
 - (8) any other instrument, document, agreement or certificate required by any provision of this code.
- (b) Any civil action to interpret, apply or enforce any provision of this code may be brought in the district court.

(c) This section shall be part of and supplemental to article 60 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 2. (a) The bylaws may provide that if the corporation solicits proxies with respect to an election of directors, it may be required, to the extent and subject to such procedures or conditions as may be provided in the bylaws, to include in its proxy solicitation materials, including any form of proxy it distributes, in addition to individuals nominated by the board of directors, one or more individuals nominated by a stockholder. Such procedures or conditions may include any of the following:

(1) A provision requiring a minimum record or beneficial ownership, or duration of ownership, of shares of the corporation's capital stock, by the nominating stockholder, and defining beneficial ownership to take into account options or other rights in respect of or related to such stock;

(2) a provision requiring the nominating stockholder to submit specified information concerning the stockholder and the stockholder's nominees, including information concerning ownership by such persons of shares of the corporation's capital stock, or options or other rights in respect of or related to such stock;

(3) a provision conditioning eligibility to require inclusion in the corporation's proxy solicitation materials upon the number or proportion of directors nominated by stockholders or whether the stockholder previously sought to require such inclusion;

(4) a provision precluding nominations by any person if such person, any nominee of such person, or any affiliate or associate of such person or nominee, has acquired or publicly proposed to acquire shares constituting a specified percentage of the voting power of the corporation's outstanding voting stock within a specified period before the election of directors;

(5) a provision requiring that the nominating stockholder undertake to indemnify the corporation in respect of any loss arising as a result of any false or misleading information or statement submitted by the nominating stockholder in connection with a nomination; and

(6) any other lawful condition.

(b) This section shall be part of and supplemental to article 60 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 3. (a) The bylaws may provide for the reimbursement by the corporation of expenses incurred by a stockholder in soliciting proxies in connection with an election of directors, subject to such procedures or conditions as the bylaws may prescribe, including:

(1) Conditioning eligibility for reimbursement upon the number or proportion of persons nominated by the stockholder seeking reimbursement or whether such stockholder previously sought reimbursement for similar expenses;

(2) limitations on the amount of reimbursement based upon the pro-

portion of votes cast in favor of one or more of the persons nominated by the stockholder seeking reimbursement, or upon the amount spent by the corporation in soliciting proxies in connection with the election;

(3) limitations concerning elections of directors by cumulative voting pursuant to K.S.A. 17-6504, and amendments thereto; or

(4) any other lawful condition.

(b) No bylaw so adopted shall apply to elections for which any record date precedes its adoption.

(c) This section shall be part of and supplemental to article 60 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 4. (a) Except as otherwise provided in subsections (b) and (c), the provisions of the Kansas general corporation code shall apply to nonstock corporations in the manner specified in this subsection:

(1) All references to stockholders of the corporation shall be deemed to refer to members of the corporation;

(2) all references to the board of directors of the corporation shall be deemed to refer to the governing body of the corporation;

(3) all references to directors or to members of the board of directors of the corporation shall be deemed to refer to members of the governing body of the corporation; and

(4) all references to stock, capital stock, or shares thereof of a corporation authorized to issue capital stock shall be deemed to refer to memberships of a nonprofit nonstock corporation and to membership interests of any other nonstock corporation.

(b) Subsection (a) shall not apply to:

(1) K.S.A. 17-6002(a)(4), (b)(1) and (b)(2), 17-6009(a), 17-6301, 17-6404, 17-6505, 17-6518, 17-6520(b), 17-6601, 17-6602, 17-6703, 17-6705, 17-6706, 17-6707, 17-6708, 17-6801, 17-6805, 17-6805a, 17-7001, 17-7002, 17-7503(a)(4) and (b)(4), 17-7504, 17-7505(a)(4) and (b)(4) and 17-7514(c) and section 4, and amendments thereto, which apply to nonstock corporations by their terms;

(2) K.S.A. 17-6002(e), the last sentence of 17-6009(b), 17-6401, 17-6402, 17-6403, 17-6405, 17-6406, 17-6407(d), 17-6408, 17-6411, 17-6412, 17-6413, 17-6414, 17-6415, 17-6416, 17-6417, 17-6418, 17-6501, 17-6502, 17-6503, 17-6504, 17-6506, 17-6509, 17-6512, 17-6521, 17-6603, 17-6604, 17-6701, 17-6702, 17-6803 and 17-6804 and sections 7, 8 and 9, and amendments thereto; and

(3) article 72 and article 73 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

(c) In the case of a nonprofit nonstock corporation, subsection (a) shall not apply to:

(1) The sections and articles listed in subsection (b);

(2) K.S.A. 17-6002(b)(3), 17-6304(a)(2), 17-6507, 17-6508, 17-6712,

17-7503, 17-7505, 17-7509, 17-7511 and 17-7514 and section 1(a)(2) and (a)(3), and amendments thereto; and

(3) article 64 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

(d) For purposes of the Kansas general corporation code:

(1) A “charitable nonstock corporation” is any nonprofit nonstock corporation that is exempt from taxation under § 501(c)(3) of the federal internal revenue code of 1986, 26 U.S.C. § 501(c)(3);

(2) a “membership interest” is, unless otherwise provided in a nonstock corporation’s articles of incorporation, a member’s share of the profits and losses of a nonstock corporation, or a member’s right to receive distributions of the nonstock corporation’s assets, or both;

(3) a “nonprofit nonstock corporation” is a nonstock corporation that does not have membership interests; and

(4) a “nonstock corporation” is any corporation organized under the Kansas general corporation code that is not authorized to issue capital stock.

(e) This section shall be part of and supplemental to article 60 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 5. (a) The articles of incorporation or the bylaws may require, consistent with applicable jurisdictional requirements, that any or all internal corporate claims shall be brought solely and exclusively in any or all of the courts in this state, and no provision of the articles of incorporation or the bylaws may prohibit bringing such claims in the courts of this state. “Internal corporate claims” means claims, including claims in the right of the corporation: (1) That are based upon a violation of a duty by a current or former director or officer or stockholder in such capacity; or (2) as to which this title confers jurisdiction upon the district court.

(b) This section shall be part of and supplemental to article 60 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 6. (a) (1) After a corporation has been dissolved in accordance with the procedures set forth in this code, the corporation or any successor entity may give notice of the dissolution, requiring all persons having a claim against the corporation other than a claim against the corporation in a pending action, suit or proceeding to which the corporation is a party, to present their claims against the corporation in accordance with such notice. Such notice shall state:

(A) That all such claims must be presented in writing and must contain sufficient information reasonably to inform the corporation or successor entity of the identity of the claimant and the substance of the claim;

(B) the mailing address to which such a claim must be sent;

(C) the date by which such a claim must be received by the corporation or successor entity, which date shall be no earlier than 60 days from the date thereof;

(D) that such claim will be barred if not received by the date referred to in subsection (a)(1)(C);

(E) that the corporation or a successor entity may make distributions to other claimants and the corporation's stockholders or persons interested as having been such without further notice to the claimant; and

(F) the aggregate amount, on an annual basis, of all distributions made by the corporation to its stockholders for each of the three years prior to the date the corporation dissolved.

(2) Such notice shall also be published at least once a week for two consecutive weeks in a newspaper of general circulation in the county in which the office of the corporation's last resident agent in this state is located and in the corporation's principal place of business and, in the case of a corporation having \$10,000,000 or more in total assets at the time of its dissolution, at least once in all editions of a daily newspaper with a national circulation. On or before the date of the first publication of such notice, the corporation or successor entity shall mail a copy of such notice by certified or registered mail, return receipt requested, to each known claimant of the corporation, including persons with claims asserted against the corporation in a pending action, suit or proceeding to which the corporation is a party.

(3) Any claim against the corporation required to be presented pursuant to this subsection is barred if a claimant who was given actual notice under this subsection does not present the claim to the dissolved corporation or successor entity by the date referred to in subsection (a)(1)(C).

(4) A corporation or successor entity may reject, in whole or in part, any claim made by a claimant pursuant to this subsection by mailing notice of such rejection by certified or registered mail, return receipt requested, to the claimant within 90 days after receipt of such claim and, in all events, at least 150 days before the expiration of the period described in K.S.A. 17-6807, and amendments thereto, except that in the case of a claim filed pursuant to K.S.A. 17-6905, and amendments thereto, against a corporation or successor entity for which a receiver or trustee has been appointed by the district court, the time period shall be as provided in K.S.A. 17-6906, and amendments thereto, and the 30-day appeal period provided for in K.S.A. 17-6906 shall be applicable. A notice sent by a corporation or successor entity pursuant to this subsection shall state that any claim rejected therein will be barred if an action, suit or proceeding with respect to the claim is not commenced within 120 days of the date thereof, and shall be accompanied by a copy of K.S.A. 17-6807 through 17-6809 and section 6, and amendments thereto, and, in the case of a notice sent by a court-appointed receiver or trustee and as to which a claim has been filed pursuant to K.S.A. 17-6905, and amendments thereto, copies of K.S.A. 17-6905 and 17-6906, and amendments thereto.

(5) A claim against a corporation is barred if a claimant whose claim is rejected pursuant to subsection (a)(4) does not commence an action,

suit or proceeding with respect to the claim no later than 120 days after the mailing of the rejection notice.

(b) (1) A corporation or successor entity electing to follow the procedures described in subsection (a) shall also give notice of the dissolution of the corporation to persons with contractual claims contingent upon the occurrence or nonoccurrence of future events or otherwise conditional or unmatured, and request that such persons present such claims in accordance with the terms of such notice. As used in this section and in K.S.A. 17-6810, and amendments thereto, the term “contractual claims” shall not include any implied warranty as to any product manufactured, sold, distributed or handled by the dissolved corporation. Such notice shall be in substantially the form, and sent and published in the same manner, as described in subsection (a)(1).

(2) The corporation or successor entity shall offer any claimant on a contract whose claim is contingent, conditional or unmatured such security as the corporation or successor entity determines is sufficient to provide compensation to the claimant if the claim matures. The corporation or successor entity shall mail such offer to the claimant by certified or registered mail, return receipt requested, within 90 days of receipt of such claim and, in all events, at least 150 days before the expiration of the period described in K.S.A. 17-6807, and amendments thereto. If the claimant offered such security does not deliver in writing to the corporation or successor entity a notice rejecting the offer within 120 days after receipt of such offer for security, the claimant shall be deemed to have accepted such security as the sole source from which to satisfy the claim against the corporation.

(c) (1) A corporation or successor entity which has given notice in accordance with subsection (a) shall petition the district court to determine the amount and form of security that will be reasonably likely to be sufficient to provide compensation for any claim against the corporation which is the subject of a pending action, suit or proceeding to which the corporation is a party other than a claim barred pursuant to subsection (a).

(2) A corporation or successor entity which has given notice in accordance with subsections (a) and (b) shall petition the district court to determine the amount and form of security that will be sufficient to provide compensation to any claimant who has rejected the offer for security made pursuant to subsection (b)(2).

(3) A corporation or successor entity which has given notice in accordance with subsection (a) shall petition the district court to determine the amount and form of security which will be reasonably likely to be sufficient to provide compensation for claims that have not been made known to the corporation or that have not arisen but that, based on facts known to the corporation or successor entity, are likely to arise or to become known to the corporation or successor entity within five years

after the date of dissolution or such longer period of time as the district court may determine, not to exceed 10 years after the date of dissolution. The district court may appoint a guardian ad litem in respect of any such proceeding brought under this subsection. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the petitioner in such proceeding.

(d) The giving of any notice or making of any offer pursuant to this section shall not revive any claim then barred or constitute acknowledgment by the corporation or successor entity that any person to whom such notice is sent is a proper claimant and shall not operate as a waiver of any defense or counterclaim in respect of any claim asserted by any person to whom such notice is sent.

(e) As used in this section, the term “successor entity” shall include any trust, receivership or other legal entity governed by the laws of this state to which the remaining assets and liabilities of a dissolved corporation are transferred and which exists solely for the purposes of prosecuting and defending suits, by or against the dissolved corporation, enabling the dissolved corporation to settle and close the business of the dissolved corporation, to dispose of and convey the property of the dissolved corporation, to discharge the liabilities of the dissolved corporation and to distribute to the dissolved corporation’s stockholders any remaining assets, but not for the purpose of continuing the business for which the dissolved corporation was organized.

(f) The time periods and notice requirements of this section shall, in the case of a corporation or successor entity for which a receiver or trustee has been appointed by the district court, be subject to variation by, or in the manner provided in, the rules of the district court.

(g) In the case of a nonstock corporation, any notice referred to in the last sentence of subsection (a)(4) shall include a copy of section 4, and amendments thereto. In the case of a nonprofit nonstock corporation, the provisions of this section regarding distributions to members shall not apply to the extent that those provisions conflict with any other applicable law or with that corporation’s articles of incorporation or bylaws.

(h) This section shall be part of and supplemental to article 68 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 7. (a) Notwithstanding any other provisions of this chapter, a corporation shall not engage in any business combination with any interested stockholder for a period of three years following the time that such stockholder became an interested stockholder, unless:

(1) Prior to such time the board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;

(2) upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stock-

holder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding, but not the outstanding voting stock owned by the interested stockholder, those shares owned: (A) By persons who are directors and also officers; and (B) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

(3) at or subsequent to such time the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 $\frac{2}{3}$ % of the outstanding voting stock which is not owned by the interested stockholder.

(b) The restrictions contained in this section shall not apply if:

(1) The corporation's original articles of incorporation contain a provision expressly electing not to be governed by this section or the Kansas business combinations with interested shareholders act;

(2) the corporation, by action of its board of directors, adopts an amendment to its bylaws on or before July 1, 1990, expressly electing not to be governed by this section or the Kansas business combinations with interested shareholders act, which amendment shall not be further amended by the board of directors;

(3) the corporation, by action of its stockholders, adopts an amendment to its articles of incorporation or bylaws expressly electing not to be governed by this section, except that, in addition to any other vote required by law, such amendment to the articles of incorporation or bylaws must be approved by the affirmative vote of a majority of the shares entitled to vote. An amendment adopted pursuant to this paragraph shall be effective immediately in the case of a corporation that both: (A) Has never had a class of voting stock that falls within any of the two categories set out in subsection (b)(4); and (B) has not elected by a provision in its original articles of incorporation, or any amendment thereto, to be governed by this section. In all other cases, an amendment adopted pursuant to this paragraph shall not be effective until 12 months after the adoption of such amendment and shall not apply to any business combination between such corporation and any person who became an interested stockholder of such corporation on or prior to such adoption. A bylaw amendment adopted pursuant to this paragraph shall not be further amended by the board of directors;

(4) the corporation does not have a class of voting stock that is: (A) Listed on a national securities exchange; or (B) held of record by more than 2,000 stockholders, unless any of the foregoing results from action taken, directly or indirectly, by an interested stockholder or from a transaction in which a person becomes an interested stockholder;

(5) a stockholder becomes an interested stockholder inadvertently

and: (A) As soon as practicable divests itself of ownership of sufficient shares so that the stockholder ceases to be an interested stockholder; and (B) would not, at any time within the three-year period immediately prior to a business combination between the corporation and such stockholder, have been an interested stockholder but for the inadvertent acquisition of ownership;

(6) (A) the business combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required by this subsection of a proposed transaction which: (i) Constitutes one of the transactions described in the second sentence of this paragraph; (ii) is with or by a person who either was not an interested stockholder during the previous three years or who became an interested stockholder with the approval of the corporation's board of directors or during the period described in paragraph (7); and (iii) is approved or not opposed by a majority of the members of the board of directors then in office, but not less than one, who were directors prior to any person becoming an interested stockholder during the previous three years or were recommended for election or elected to succeed such directors by a majority of such directors.

(B) The proposed transactions referred to in subsection (b)(6)(A) are limited to: (i) A merger or consolidation of the corporation, except for a merger in respect of which, pursuant to K.S.A. 17-6701(f), and amendments thereto, no vote of the stockholders of the corporation is required; (ii) a sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation, other than to any direct or indirect wholly-owned subsidiary or to the corporation, having an aggregate market value equal to 50% or more of either that aggregate market value of all of the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation; or (iii) a proposed tender or exchange offer for 50% or more of the outstanding voting stock of the corporation. The corporation shall give not less than 20 days' notice to all interested stockholders prior to the consummation of any of the transactions described in subparagraph (B)(i) or (ii); or

(7) the business combination is with an interested stockholder who became an interested stockholder at a time when the restrictions contained in this section did not apply by reason of any of subsections (b)(1) through (b)(4), except that this paragraph shall not apply if, at the time such interested stockholder became an interested stockholder, the corporation's articles of incorporation contained a provision authorized by the last sentence of this subsection.

Notwithstanding subsections (b)(1) through (b)(4), a corporation may elect by a provision of its original articles of incorporation, or any amend-

ment thereto, to be governed by this section, except that any such amendment to the articles of incorporation shall not apply to restrict a business combination between the corporation and an interested stockholder of the corporation if the interested stockholder became such prior to the effective date of the amendment.

(c) As used in this section only:

(1) “Affiliate” means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

(2) “Associate,” when used to indicate a relationship with any person, means: (A) Any corporation, partnership, unincorporated association or other entity of which such person is a director, officer or partner or is, directly or indirectly, the owner of 20% or more of any class of voting stock; (B) any trust or other estate in which such person has at least a 20% beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and (C) any relative or spouse of such person, or any relative of such spouse, who has the same residence as such person.

(3) “Business combination,” when used in reference to any corporation and any interested stockholder of such corporation, means:

(A) Any merger or consolidation of the corporation or any direct or indirect majority-owned subsidiary of the corporation with:

(i) The interested stockholder; or

(ii) with any other corporation, partnership, unincorporated association or other entity if the merger or consolidation is caused by the interested stockholder and as a result of such merger or consolidation subsection (a) is not applicable to the surviving entity;

(B) any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, except proportionately as a stockholder of such corporation, to or with the interested stockholder, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation which assets have an aggregate market value equal to 10% or more of either the aggregate market value of all the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation;

(C) any transaction which results in the issuance or transfer by the corporation or by any direct or indirect majority-owned subsidiary of the corporation of any stock of the corporation or of such subsidiary to the interested stockholder, except:

(i) Pursuant to the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of such corporation or any such subsidiary which securities were outstanding prior to the time that the interested stockholder became such;

(ii) pursuant to a merger under K.S.A. 17-6701(g), and amendments thereto;

(iii) pursuant to a dividend or distribution paid or made, or the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of such corporation or any such subsidiary which security is distributed, pro rata to all holders of a class or series of stock of such corporation subsequent to the time the interested stockholder became such;

(iv) pursuant to an exchange offer by the corporation to purchase stock made on the same terms to all holders of such stock; or

(v) any issuance or transfer of stock by the corporation; provided however, that in no case under subparagraph (C)(iii) through (v) shall there be an increase in the interested stockholder's proportionate share of the stock of any class or series of the corporation or of the voting stock of the corporation;

(D) any transaction involving the corporation or any direct or indirect majority-owned subsidiary of the corporation which has the effect, directly or indirectly, of increasing the proportionate share of the stock of any class or series, or securities convertible into the stock of any class or series, of the corporation or of any such subsidiary which is owned by the interested stockholder, except as a result of immaterial changes due to fractional share adjustments or as a result of any purchase or redemption of any shares of stock not caused, directly or indirectly, by the interested stockholder; or

(E) any receipt by the interested stockholder of the benefit, directly or indirectly, except proportionately as a stockholder of such corporation, of any loans, advances, guarantees, pledges or other financial benefits, other than those expressly permitted in subparagraphs (A) through (D), provided by or through the corporation or any direct or indirect majority-owned subsidiary.

(4) "Control," including the terms "controlling," "controlled by" and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract or otherwise. A person who is the owner of 20% or more of the outstanding voting stock of any corporation, partnership, unincorporated association or other entity shall be presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary, except that a presumption of control shall not apply where such person holds voting stock, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not individually or as a group have control of such entity.

(5) (A) "Interested stockholder" means any person, other than the corporation and any direct or indirect majority-owned subsidiary of the corporation, that:

(i) Is the owner of 15% or more of the outstanding voting stock of the corporation; or

(ii) is an affiliate or associate of the corporation and was the owner of 15% or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether such person is an interested stockholder, and the affiliates and associates of such person.

(B) The term “interested stockholder” shall not include:

(i) Any person who: (a) Owned shares in excess of the 15% limitation set forth herein as of, or acquired such shares pursuant to a tender offer commenced prior to July 1, 1989, or pursuant to an exchange offer announced prior to such date and commenced within 90 days thereafter and either: (1) Continued to own shares in excess of such 15% limitation or would have but for action by the corporation; or (2) is an affiliate or associate of the corporation and so continued, or so would have continued but for action by the corporation, to be the owner of 15% or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether such a person is an interested stockholder; or (b) acquired such shares from a person described in subparagraph (B)(i)(a) by gift, inheritance or in a transaction in which no consideration was exchanged; or

(ii) any person whose ownership of shares in excess of the 15% limitation set forth herein is the result of action taken solely by the corporation; provided that such person shall be an interested stockholder if thereafter such person acquires additional shares of voting stock of the corporation, except as a result of further corporate action not caused, directly or indirectly, by such person.

(C) For the purpose of determining whether a person is an interested stockholder, the voting stock of the corporation deemed to be outstanding shall include stock deemed to be owned by the person through application of paragraph (9), but shall not include any other unissued stock of such corporation which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

(6) “Person” means any individual, corporation, partnership, unincorporated association or other entity.

(7) “Stock” means, with respect to any corporation, capital stock and, with respect to any other entity, any equity interest.

(8) “Voting stock” means, with respect to any corporation, stock of any class or series entitled to vote generally in the election of directors and, with respect to any entity that is not a corporation, any equity interest entitled to vote generally in the election of the governing body of such entity. Every reference to a percentage of voting stock shall refer to such percentage of the votes of such voting stock.

(9) “Owner,” including the terms “own” and “owned,” when used with respect to any stock, means a person that individually or with or through any of its affiliates or associates:

(A) Beneficially owns such stock, directly or indirectly;

(B) has: (i) The right to acquire such stock, whether such right is exercisable immediately or only after the passage of time, pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise, except that a person shall not be deemed the owner of stock tendered pursuant to a tender or exchange offer made by such person or any of such person’s affiliates or associates until such tendered stock is accepted for purchase or exchange; or (ii) the right to vote such stock pursuant to any agreement, arrangement or understanding, except that a person shall not be deemed the owner of any stock because of such person’s right to vote such stock if the agreement, arrangement or understanding to vote such stock arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to 10 or more persons; or

(C) has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting, except voting pursuant to a revocable proxy or consent as described in subparagraph (B)(ii), or disposing of such stock with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such stock.

(d) No provision of an articles of incorporation or bylaw shall require, for any vote of stockholders required by this section, a greater vote of stockholders than that specified in this section.

(e) This section amends and recodifies the Kansas business combinations with interested shareholders act. Any reference in a corporation’s articles of incorporation or bylaws to the Kansas business combinations with interested shareholders act shall be deemed to refer to this section.

(f) This section shall be part of and supplemental to article 64 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 8. (a) Subject to subsection (f), no defective corporate act or putative stock shall be void or voidable solely as a result of a failure of authorization if ratified as provided in this section or validated by the district court in a proceeding brought under section 9, and amendments thereto.

(b) (1) In order to ratify one or more defective corporate acts pursuant to this section, other than the ratification of an election of the initial board of directors pursuant to subsection (b)(2), the board of directors of the corporation shall adopt resolutions stating:

(A) The defective corporate act or acts to be ratified;

(B) the date of each defective corporate act or acts;

(C) if such defective corporate act or acts involved the issuance of shares of putative stock, the number and type of shares of putative stock

issued and the date or dates upon which such putative shares were purported to have been issued;

(D) the nature of the failure of authorization in respect of each defective corporate act to be ratified; and

(E) that the board of directors approves the ratification of the defective corporate act or acts.

Such resolutions may also provide that, at any time before the validation effective time in respect to any defective corporate act set forth therein, notwithstanding the approval of the ratification of such defective corporate act by stockholders, the board of directors may abandon the ratification of such defective corporate act without further action of the stockholders. The quorum and voting requirements applicable to the ratification by the board of directors of any defective corporate act shall be the quorum and voting requirements applicable to the type of defective corporate act proposed to be ratified at the time the board adopts the resolutions ratifying the defective corporate act, except that if the articles of incorporation or bylaws of the corporation, any plan or agreement to which the corporation was a party or any provision of the Kansas general corporation code, in each case as in effect as of the time of the defective corporate act, would have required a larger number or portion of directors or of specified directors for a quorum to be present or to approve the defective corporate act, such larger number or portion of such directors or such specified directors shall be required for a quorum to be present or to adopt the resolutions to ratify the defective corporate act, as applicable, except that the presence or approval of any director elected, appointed or nominated by holders of any class or series of which no shares are then outstanding, or by any person that is no longer a stockholder, shall not be required.

(2) In order to ratify a defective corporate act in respect of the election of the initial board of directors of the corporation pursuant to K.S.A. 17-6008, and amendments thereto, a majority of the persons who, at the time the resolutions required by this paragraph are adopted, are exercising the powers of directors under claim and color of an election or appointment as such may adopt resolutions stating:

(A) The name of the person or persons who first took action in the name of the corporation as the initial board of directors of the corporation;

(B) the earlier of the date on which such persons first took such action or were purported to have been elected as the initial board of directors; and

(C) that the ratification of the election of such person or persons as the initial board of directors is approved.

(c) Each defective corporate act ratified pursuant to subsection (b)(1) shall be submitted to stockholders for approval as provided in subsection (d), unless:

(1) No other provision of the Kansas general corporation code, and no provision of the articles of incorporation or bylaws of the corporation, or of any plan or agreement to which the corporation is a party, would have required stockholder approval of such defective corporate act to be ratified, either at the time of such defective corporate act or at the time the board of directors adopts the resolutions ratifying such defective corporate act pursuant to subsection (b)(1); and

(2) such defective corporate act did not result from a failure to comply with section 7, and amendments thereto.

(d) If the ratification of a defective corporate act is required to be submitted to stockholders for approval pursuant to subsection (c), due notice of the time, place, if any, and purpose of the meeting shall be given at least 20 days before the date of the meeting to each holder of valid stock and putative stock, whether voting or nonvoting, at the address of such holder as it appears or most recently appeared, as appropriate, on the records of the corporation. The notice also shall be given to the holders of record of valid stock and putative stock, whether voting or nonvoting, as of the time of the defective corporate act, other than holders whose identities or addresses cannot be determined from the records of the corporation. The notice shall contain a copy of the resolutions adopted by the board of directors pursuant to subsection (b)(1) or the information required by subsection (b)(1)(A) through (E) and a statement that any claim that the defective corporate act or putative stock ratified hereunder is void or voidable due to the failure of authorization, or that the district court should declare in its discretion that a ratification in accordance with this section not be effective or be effective only on certain conditions must be brought within 120 days from the applicable validation effective time. At such meeting, the quorum and voting requirements applicable to the ratification of such defective corporate act shall be the quorum and voting requirements applicable to the type of defective corporate act proposed to be ratified at the time of the approval of the ratification, except that:

(1) If the articles of incorporation or bylaws of the corporation, any plan or agreement to which the corporation was a party or any provision of the Kansas general corporation code in effect as of the time of the defective corporate act would have required a larger number or portion of stock or of any class or series thereof or of specified stockholders for a quorum to be present or to approve the defective corporate act, the presence or approval of such larger number or portion of stock or of such class or series thereof or of such specified stockholders shall be required for a quorum to be present or to approve the ratification of the defective corporate act, as applicable, except that the presence or approval of shares of any class or series of which no shares are then outstanding, or of any person that is no longer a stockholder, shall not be required;

(2) the approval by stockholders of the ratification of the election of

a director shall require the affirmative vote of the majority of shares present at the meeting and entitled to vote on the election of such director, except that if the articles of incorporation or bylaws of the corporation then in effect or in effect at the time of the defective election require or required a larger number or portion of stock or of any class or series thereof or of specified stockholders to elect such director, the affirmative vote of such larger number or portion of stock or of any class or series thereof or of such specified stockholders shall be required to ratify the election of such director, except that the presence or approval of shares of any class or series of which no shares are then outstanding, or of any person that is no longer a stockholder, shall not be required; and

(3) in the event of a failure of authorization resulting from failure to comply with the provisions of section 7, and amendments thereto, the ratification of the defective corporate act shall require the vote set forth in section 7(a)(3), and amendments thereto, regardless of whether such vote would have otherwise been required.

Shares of putative stock on the record date for determining stockholders entitled to vote on any matter submitted to stockholders pursuant to subsection (c), and without giving effect to any ratification that becomes effective after such record date, shall neither be entitled to vote nor counted for quorum purposes in any vote to ratify any defective corporate act.

(e) If a defective corporate act ratified pursuant to this section would have required under any other section of the Kansas general corporation code the filing of a document in accordance with K.S.A. 2015 Supp. 17-7910, and amendments thereto, then, whether or not a document was previously filed in respect to such defective corporate act and in lieu of filing the document otherwise required by provisions of the Kansas general corporation code, the corporation shall file a certificate of validation with respect to such defective corporate act in accordance with K.S.A. 2015 Supp. 17-7910, and amendments thereto. A separate certificate of validation shall be required for each defective corporate act requiring the filing of a certificate of validation under this section, except that two or more defective corporate acts may be included in a single certificate of validation if the corporation filed, or to comply with provisions of the Kansas general corporation code, would have filed, a single document under another provision of the Kansas general corporation code to effect such acts, and two or more overissues of shares of any class, classes or series of stock may be included in a single certificate of validation, provided that the increase in the number of authorized shares of each such class or series set forth in the certificate of validation shall be effective as of the date of the first such overissue. The certificate of validation shall set forth:

(1) Each defective corporate act that is the subject of the certificate of validation, including, in the case of any defective corporate act involving

the issuance of shares of putative stock, the number and type of shares of putative stock issued and the date or dates upon which such putative shares were purported to have been issued, the date of such defective corporate act, and the nature of the failure of authorization in respect to such defective corporate act;

(2) a statement that such defective corporate act was ratified in accordance with this section, including the date on which the board of directors ratified such defective corporate act and the date, if any, on which the stockholders approved the ratification of such defective corporate act; and

(3) the information required by one of the following subparagraphs:

(A) If a document was previously filed under K.S.A. 2015 Supp. 17-7910, and amendments thereto, in respect to such defective corporate act and no changes to such document are required to give effect to such defective corporate act in accordance with this section, the certificate of validation shall set forth: (i) The name, title and filing date of the document previously filed and of any certificate of correction thereto; and (ii) a statement that a copy of the document previously filed, together with any certificate of correction thereto, is attached as an exhibit to the certificate of validation;

(B) if a document was previously filed under K.S.A. 2015 Supp. 17-7910, and amendments thereto, in respect to the defective corporate act and such document requires any change to give effect to the defective corporate act in accordance with this section, including a change to the date and time of the effectiveness of such certificate, the certificate of validation shall set forth: (i) The name, title and filing date of the document so previously filed and of any certificate of correction thereto; (ii) a statement that a document containing all of the information required to be included under the applicable section or sections of the Kansas general corporation code to give effect to the defective corporate act is attached as an exhibit to the certificate of validation; and (iii) the date that such certificate shall be deemed to have become effective pursuant to this section; or

(C) if a document was not previously filed under K.S.A. 2015 Supp. 17-7910, and amendments thereto, in respect to the defective corporate act and the defective corporate act ratified pursuant to this section would have required under any other section of the Kansas general corporation code the filing of a document in accordance with K.S.A. 2015 Supp. 17-7910, and amendments thereto, the certificate of validation shall set forth: (i) A statement that a document containing all of the information required to be included under the applicable section or sections of the Kansas general corporation code to give effect to the defective corporate act is attached as an exhibit to the certificate of validation; and (ii) the date and time that such certificate shall be deemed to have become effective pursuant to this section.

(4) A document attached to a certificate of validation pursuant to paragraph (3)(B) or (C) need not be separately executed and acknowledged and need not include any statement required by any other section of the Kansas general corporation code that such document has been approved and adopted in accordance with the provisions of such other section.

(f) From and after the validation effective time, unless otherwise determined in an action brought pursuant to section 9, and amendments thereto:

(1) Subject to the last sentence of subsection (d), each defective corporate act ratified in accordance with this section shall no longer be deemed void or voidable as a result of a the failure of authorization described in the resolutions adopted pursuant to subsection (b) and such effect shall be retroactive to the time of the defective corporate act; and

(2) subject to the last sentence of subsection (d), each share or fraction of a share of putative stock issued or purportedly issued pursuant to any such defective corporate act shall no longer be deemed void or voidable and shall be deemed to be an identical share or fraction of a share of outstanding stock as of the time it was purportedly issued.

(g) (1) In respect of each defective corporate act ratified by the board of directors pursuant to subsection (b), prompt notice of the ratification shall be given to all holders of valid stock and putative stock, whether voting or nonvoting, as of the date the board of directors adopts the resolutions approving such defective corporate act, or as of a date within 60 days after such date of adoption, as established by the board of directors, at the address of such holder as it appears or most recently appeared, as appropriate, on the records of the corporation. The notice also shall be given to the holders of record of valid stock and putative stock, whether voting or nonvoting, as of the time of the defective corporate act, other than holders whose identities or addresses cannot be determined from the records of the corporation. The notice shall contain a copy of the resolutions adopted pursuant to subsection (b) or the information specified in subsection (b)(1)(A) through (E) or subsection (b)(2)(A) through (C), as applicable, and a statement that any claim that the defective corporate act or putative stock ratified hereunder is void or voidable due to the failure of authorization, or that the district court should declare in its discretion that a ratification in accordance with this section not be effective or be effective only on certain conditions must be brought within 120 days from the later of the validation effective time or the time at which the notice required by this subsection is given.

(2) Notwithstanding the provisions of paragraph (1): (A) No such notice shall be required if notice of the ratification of the defective corporate act is to be given in accordance with subsection (d); and (B) in the case of a corporation that has a class of stock listed on a national securities exchange, the notice required by this subsection may be deemed given if

disclosed in a document publicly filed by the corporation with the securities and exchange commission pursuant to section 13, 14 or 15(d) of the securities exchange act of 1934, as amended, and the rules and regulations promulgated thereunder, or the corresponding provisions of any subsequent federal securities laws, rules or regulations.

(3) If any defective corporate act has been approved by stockholders acting pursuant to K.S.A. 17-6518, and amendments thereto, the notice required by this subsection may be included in any notice required to be given pursuant to K.S.A. 17-6518(e), and amendments thereto, and, if so given, shall be sent to the stockholders entitled thereto under K.S.A. 17-6518(e), and amendments thereto, and to all holders of valid and putative stock to whom notice would be required under this subsection if the defective corporate act had been approved at a meeting other than any stockholder who approved the action by consent in lieu of a meeting pursuant to K.S.A. 17-6518, and amendments thereto, or any holder of putative stock who otherwise consented thereto in writing. Solely for purposes of subsection (d) and this subsection, notice to holders of putative stock, and notice to holders of valid stock and putative stock as of the time of the defective corporate act, shall be treated as notice to holders of valid stock for purposes of K.S.A. 17-6512, 17-6518, 17-6519, 17-6520, 17-6522 and 17-6523, and amendments thereto.

(h) As used in this section and in section 9, and amendments thereto, only, the terms:

(1) “Defective corporate act” means an overissue, an election or appointment of directors that is void or voidable due to a failure of authorization, or any act or transaction purportedly taken by or on behalf of the corporation that is, and at the time such act or transaction was purportedly taken would have been, within the power of a corporation under the provisions of article 61 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, but is void or voidable due to a failure of authorization.

(2) “Failure of authorization” means: (A) The failure to authorize or effect an act or transaction in compliance with the provisions of this code, the articles of incorporation or bylaws of the corporation, or any plan or agreement to which the corporation is a party, if and to the extent such failure would render such act or transaction void or voidable; or (B) the failure of the board of directors or any officer of the corporation to authorize or approve any act or transaction taken by or on behalf of the corporation that would have required for its due authorization the approval of the board of directors or such officer.

(3) “Overissue” means the purported issuance of:

(A) Shares of capital stock of a class or series in excess of the number of shares of such class or series the corporation has the power to issue under K.S.A. 17-6411, and amendments thereto, at the time of such issuance; or

(B) shares of any class or series of capital stock that is not then authorized for issuance by the articles of incorporation of the corporation.

(4) “Putative stock” means the shares of any class or series of capital stock of the corporation, including shares issued upon exercise of options, rights, warrants or other securities convertible into shares of capital stock of the corporation, or interests with respect thereto that were created or issued pursuant to a defective corporate act, that:

(A) But for any failure of authorization, would constitute valid stock; or

(B) cannot be determined by the board of directors to be valid stock.

(5) “Time of the defective corporate act” means the date and time the defective corporate act was purported to have been taken.

(6) “Validation effective time” with respect to any defective corporate act ratified pursuant to this section means the latest of:

(A) The time at which the defective corporate act submitted to the stockholders for approval pursuant to subsection (c) is approved by such stockholders, or if no such vote of stockholders is required to approve the ratification of the defective corporate act, the time at which the board of directors adopts the resolutions required by subsection (b)(1) or (b)(2);

(B) where no certificate of validation is required to be filed pursuant to subsection (e), the time, if any, specified by the board of directors in the resolutions adopted pursuant to subsection (b)(1) or (b)(2), which time shall not precede the time at which such resolutions are adopted; and

(C) the time at which any certificate of validation filed pursuant to subsection (e) shall become effective in accordance with K.S.A. 2015 Supp. 17-7911, and amendments thereto.

(7) “Valid stock” means the shares of any class or series of capital stock of the corporation that have been duly authorized and validly issued in accordance with the Kansas general corporation code.

In the absence of actual fraud in the transaction, the judgment of the board of directors that shares of stock are valid stock or putative stock shall be conclusive, unless otherwise determined by the district court in a proceeding brought pursuant to section 9, and amendments thereto.

(i) Ratification under this section or validation under section 9, and amendments thereto, shall not be deemed to be the exclusive means of ratifying or validating any act or transaction taken by or on behalf of the corporation, including any defective corporate act, or any issuance of stock, including any putative stock, or of adopting or endorsing any act or transaction taken by or in the name of the corporation prior to the commencement of its existence, and the absence or failure of ratification in accordance with either this section or validation under section 9, and amendments thereto, shall not, of itself, affect the validity or effectiveness of any act or transaction or the issuance of any stock properly ratified under common law or otherwise, nor shall it create a presumption that

any such act or transaction is or was a defective corporate act or that such stock is void or voidable.

(j) This section shall be part of and supplemental to article 64 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 9. (a) Subject to subsection (e), upon application by the corporation, any successor entity to the corporation, any member of the board of directors, any record or beneficial holder of valid stock or putative stock, any record or beneficial holder of valid or putative stock as of the time of a defective corporate act ratified pursuant to section 8, and amendments thereto, or any other person claiming to be substantially and adversely affected by a ratification pursuant to section 8, and amendments thereto, the district court may:

- (1) Determine the validity and effectiveness of any defective corporate act ratified pursuant to section 8, and amendments thereto;
- (2) determine the validity and effectiveness of the ratification of any defective corporate act pursuant to section 8, and amendments thereto;
- (3) determine the validity and effectiveness of any defective corporate act not ratified or not ratified effectively pursuant to section 8, and amendments thereto;
- (4) determine the validity of any corporate act or transaction and any stock, rights or options to acquire stock; and
- (5) modify or waive any of the procedures set forth in section 8, and amendments thereto, to ratify a defective corporate act.

(b) In connection with an action under this section, the district court may:

- (1) Declare that a ratification in accordance with and pursuant to section 8, and amendments thereto, is not effective or shall only be effective at a time or upon conditions established by the court;
- (2) validate and declare effective any defective corporate act or putative stock and impose conditions upon such validation by the court;
- (3) require measures to remedy or avoid harm to any person substantially and adversely affected by a ratification pursuant to section 8, and amendments thereto, or from any order of the court pursuant to this section, excluding any harm that would have resulted if the defective corporate act had been valid when approved or effectuated;
- (4) order the secretary of state to accept an instrument for filing with an effective time specified by the court, which effective time may be prior or subsequent to the time of such order, provided that the filing date of such instrument shall be determined in accordance with K.S.A. 2015 Supp. 17-7911, and amendments thereto;
- (5) approve a stock ledger for the corporation that includes any stock ratified or validated in accordance with this section or with section 8, and amendments thereto;
- (6) declare that shares of putative stock are shares of valid stock or

require a corporation to issue and deliver shares of valid stock in place of any shares of putative stock;

(7) order that a meeting of holders of valid stock or putative stock be held and exercise the powers provided to the court under K.S.A. 17-6517, and amendments thereto, with respect to such a meeting;

(8) declare that a defective corporate act validated by the court shall be effective as of the time of the defective corporate act or at such other time as the court shall determine;

(9) declare that putative stock validated by the court shall be deemed to be an identical share or fraction of a share of valid stock as of the time originally issued or purportedly issued or at such other time as the court shall determine; and

(10) make such other orders regarding such matters as it deems proper under the circumstances.

(c) Service of the application under subsection (a) upon the resident agent of the corporation shall be deemed to be service upon the corporation, and no other party need be joined in order for the district court to adjudicate the matter. In an action filed by the corporation, the court may require notice of the action be provided to other persons specified by the court and permit such other persons to intervene in the action.

(d) In connection with the resolution of matters pursuant to subsections (a) and (b), the district court may consider the following:

(1) Whether the defective corporate act was originally approved or effectuated with the belief that the approval or effectuation was in compliance with the provisions of the Kansas general corporation code, the articles of incorporation or bylaws of the corporation;

(2) whether the corporation and board of directors has treated the defective corporate act as a valid act or transaction and whether any person has acted in reliance on the public record that such defective corporate act was valid;

(3) whether any person will be or was harmed by the ratification or validation of the defective corporate act, excluding any harm that would have resulted if the defective corporate act had been valid when approved or effectuated;

(4) whether any person will be harmed by the failure to ratify or validate the defective corporate act; and

(5) any other factors or considerations the court deems just and equitable.

(e) Notwithstanding any other provision of this section, no action asserting:

(1) That a defective corporate act or putative stock ratified in accordance with section 8, and amendments thereto, is void or voidable due to a failure of authorization identified in the resolution adopted in accordance with section 8(b), and amendments thereto; or

(2) that the district court should declare in its discretion that a rati-

fication in accordance with section 8, and amendments thereto, not be effective or be effective only on certain conditions, may be brought after the expiration of 120 days from the later of the validation effective time and the time notice, if any, that is required to be given pursuant to section 8(g), and amendments thereto, is given with respect to such ratification, except that this subsection shall not apply to an action asserting that a ratification was not accomplished in accordance with section 8, and amendments thereto, or to any person to whom notice of the ratification was required to have been given pursuant to section 8(d) or (g), and amendments thereto, but to whom such notice was not given.

(f) This section shall be part of and supplemental to article 64 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 10. K.S.A. 17-1289 is hereby amended to read as follows: 17-1289. (a) An “issuing public corporation” means a corporation organized under the laws of the state of Kansas that has:

- (1) One hundred or more shareholders;
 - (2) its principal place of business; or its principal office *in Kansas*, or ~~substantial that owns or controls~~ assets within Kansas *having a fair market value of more than \$1,000,000*; and
 - (3) either:
 - (A) More than 10% of its shareholders resident in Kansas;
 - (B) more than 10% of its shares owned *of record or beneficially* by Kansas residents; or
 - (C) ~~two one thousand five hundred~~ shareholders resident in Kansas.
- (b) The residence of a shareholder is presumed to be the address appearing in the records of the corporation.

~~(c) Shares held by banks, except as trustee or guardian, brokers or nominees shall be disregarded for purposes of calculating the percentages or numbers described in this section.~~

Sec. 11. K.S.A. 17-2036 is hereby amended to read as follows: 17-2036. (a) Every business trust shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the business trust at the close of business on the last day of its tax period under the Kansas income tax act next preceding the date of filing, but if a business trust’s tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms provided by the secretary of state and shall be filed at the time prescribed by law for filing the business trust’s annual Kansas income tax return. The report shall be ~~dated~~ signed by a trustee or other authorized officer under penalty of perjury; and contain the following:

- (1) Executed copies of all amendments to the instrument by which the business trust was created, or to prior amendments thereto, which have been adopted and have not theretofore been filed under K.S.A. 17-

2033, and amendments thereto, and accompanied by the fee prescribed therein for each such amendment; and

(2) a verified list of the names and addresses of its trustees as of the end of its tax period.

(b) (1) At the time of filing its annual report, the business trust shall pay to the secretary of state an annual report fee in an amount equal to \$40.

(2) The failure of any domestic or foreign business trust to file its annual report and pay its annual report fee within 90 days from the date on which they are due, ~~as aforesaid~~ *described in subsection (a), or, in the case of an annual report filing and fee received by mail, postmarked within 90 days from the date on which they are due, as described in subsection (a)*, shall work a forfeiture of its authority to transact business in this state and all of the remedies, procedures, and penalties specified in K.S.A. 17-7509 and 17-7510, and amendments thereto, with respect to a corporation which fails to file its annual report or pay its annual report fee within 90 days after they are due, shall be applicable to such business trust.

(c) All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234, and amendments thereto, a proper judicial order and subsection (d). All copies of such applications shall be preserved for one year and until the secretary of state orders that the copies are to be destroyed.

(d) A copy of such application shall be open to inspection by or disclosure to any person designated by resolution of the trustees of the business trust.

Sec. 12. K.S.A. 17-2718 is hereby amended to read as follows: 17-2718. (a) Each professional corporation organized under the laws of this state shall file with the secretary of state an annual report in writing stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return. The report shall be made on a form provided by the secretary of state, containing the following information:

(1) The names and addresses of all officers, directors and shareholders of the professional corporation;

(2) a statement that each officer, director and shareholder is or is not a qualified person as defined in K.S.A. 17-2707, and amendments thereto,

and setting forth the date on which any shares of the corporation were no longer owned by a qualified person; and

(3) the amount of capital stock issued.

(b) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event its board of directors shall not have been elected. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report shall be ~~dated and~~ subscribed by the person as true, under penalty of perjury. Upon request by the regulatory board which licenses the shareholders described in the report, a copy of the annual report shall be forwarded to the regulatory board. At the time of filing its annual report, each professional corporation shall pay the annual report fee prescribed by K.S.A. 17-7503, and amendments thereto.

Sec. 13. K.S.A. 17-4634 is hereby amended to read as follows: 17-4634. (a) Every corporation organized under the electric cooperative act of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The report shall be filed on or before the ~~fifteenth~~ 15th day of the ~~fourth~~ 4th month following the close of the tax year of the electric cooperative. The report shall be made on a form provided by the secretary of state, containing the following information:

- (1) The name of the corporation;
- (2) the location of the principal office;
- (3) the names and addresses of the president, secretary, treasurer and all directors;
- (4) the number of memberships issued; and
- (5) the change or changes, if any, in the particulars made since the last annual report.

(b) Such reports shall be ~~dated,~~ signed by the president, vice-president or secretary of the corporation under penalty of perjury and forwarded to the secretary of state. At the time of filing such annual report, each such corporation shall pay an annual report fee in an amount equal to \$40.

Sec. 14. K.S.A. 17-6001 is hereby amended to read as follows: 17-6001. (a) Any person, partnership, association or corporation, singly or jointly with others, and without regard to *such person's or entity's* residence, domicile or state of incorporation, may incorporate or organize a

corporation under this ~~act~~ *code* by filing with the secretary of state articles of incorporation which shall be executed and filed in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7908 through 17-7910, and amendments thereto.

(b) Except as otherwise provided by law, a corporation may be incorporated or organized under this ~~act~~ *code* to conduct or promote any lawful business or purposes.

(c) Corporations subject to special statutory regulation may be organized under this ~~act~~ *code* if required by or otherwise consistent with such other statutory regulation, but such corporations shall be subject to the special provisions and requirements applicable to such corporations. Where the provisions and requirements of this ~~act~~ *code* are not inconsistent, they shall be construed as supplemental to such other statutes and not in derogation or limitation thereof, and such corporations shall be governed thereby. Subject to the foregoing provisions of this subsection, any corporation organized under the laws of this state or authorized to do business in this state shall be governed by the applicable provisions of this code.

Sec. 15. K.S.A. 2015 Supp. 17-6002 is hereby amended to read as follows: 17-6002. (a) The articles of incorporation shall set forth:

(1) The name of the corporation pursuant to K.S.A. 2015 Supp. 17-7918 and 17-7919, and amendments thereto, of the business entity standard treatment act;

(2) the address, ~~which shall include the street, number, city and zip code~~ of the corporation's registered office in this state, *which shall be stated in accordance with K.S.A. 2015 Supp. 17-7924, and amendments thereto*, and the name of its resident agent;

(3) the nature of the business or purposes to be conducted or promoted. It shall be sufficient to state, either alone or with other businesses or purposes, that the purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the Kansas general corporation code, and by such statement all lawful acts and activities shall be within the purposes of the corporation, except for express limitations, if any;

(4) (A) if the corporation is to be authorized to issue only one class of stock, the total number of shares of stock which the corporation shall have authority to issue and the par value of each of such shares, or a statement that all such shares are to be without par value. If the corporation is to be authorized to issue more than one class of stock, the articles of incorporation shall set forth the total number of shares of all classes of stock which the corporation shall have authority to issue and the number of shares of each class, and shall specify each class the shares of which are to be without par value, and each class the shares of which are to have a par value and the par value of the shares of each such class. The articles

of incorporation shall also set forth a statement of the designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereof, which are permitted by K.S.A. 17-6401, and amendments thereto, in respect to any class or classes of stock or any series of any class of stock of the corporation and the fixing of which by the articles of incorporation is desired, and an express grant of such authority as it may then be desired to grant to the board of directors to fix by resolution or resolutions any thereof that may be desired but which shall not be fixed by the articles of incorporation.

(B) (i) ~~The foregoing provisions of this subsection shall not apply to nonstock corporations which are not organized for profit and which are not to have authority to issue capital stock. In the case of such nonstock corporations, the fact that they are not to have authority authorized to issue capital stock shall be stated in the articles of incorporation and unless otherwise provided in the articles of incorporation or bylaws, the directors of such corporation shall be members for all purposes under the Kansas general corporation code. The conditions of membership of such, or other criteria for identifying members, of nonstock corporations shall likewise be stated in the articles of incorporation or the articles may provide that the conditions of membership shall be stated in the bylaws, and if a corporation not organized for profit is to have authority to issue capital stock, such fact shall be stated in the articles of incorporation bylaws. Nonstock corporations shall have members, but failure to have members shall not affect otherwise valid corporate acts or work a forfeiture or dissolution of the corporation.~~

(ii) *Nonstock corporations may provide for classes or groups of members having relative rights, powers and duties, and may make provision for the future creation of additional classes or groups of members having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members. Except as otherwise provided in this code, nonstock corporations may also provide that any member or class or group of members shall have full, limited or no voting rights or powers, including that any member or class or group of members shall have the right to vote on a specified transaction even if that member or class or group of members does not have the right to vote for the election of the members of the governing body of the corporation. Voting by members of a nonstock corporation may be on a per capita, number, financial interest, class, group or any other basis set forth.*

(iii) *The provisions referred to in paragraph (4)(B)(ii) may be set forth in the articles of incorporation or the bylaws. If neither the articles of incorporation nor the bylaws of a nonstock corporation state the conditions of membership, or other criteria for identifying members, the members of the corporation shall be deemed to be those entitled to vote for the election of the members of the governing body pursuant to the*

articles of incorporation or bylaws of such corporation or otherwise until thereafter otherwise provided by the articles of incorporation or the bylaws;

(5) the name and mailing address of the incorporator or incorporators; and

(6) if the powers of the incorporator or incorporators are to terminate upon the filing of the articles of incorporation, the names and mailing addresses of the persons who are to serve as directors until the first annual meeting of stockholders or until their successors are elected and qualify.

(b) In addition to the matters required to be set forth in the articles of incorporation by subsection (a), the articles of incorporation may also contain any or all of the following matters:

(1) Any provision for the management of the business and for the conduct of the affairs of the corporation, and any provision creating, defining, limiting and regulating the sale or other disposition of stock and the powers of the corporation, the directors and the stockholders, or any class of the stockholders, or the *governing body, members or any class or group of* members of a nonstock corporation, if such provisions are not contrary to the laws of this state. Any provision which is required or permitted by any section of this ~~act~~ *code* to be stated in the bylaws may be stated instead in the articles of incorporation;

(2) the following provisions, in these words:

(A) *For a corporation other than a nonstock corporation: "Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them or between this corporation and its stockholders or any class of them, any court of competent jurisdiction within the state of Kansas, on the application in a summary way of this corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this corporation under K.S.A. 17-6901, and amendments thereto, or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under the provisions of K.S.A. 17-6808 and 17-6901, and amendments thereto, may order a meeting of the creditors or class of creditors, or of the stockholders or class of stockholders of this corporation, as the case may be, to be summoned in such manner as the court directs. If a majority in number representing $\frac{3}{4}$ in value of the creditors or class of creditors, or of the stockholders or class of stockholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangement, such compromise or arrangement and such reorganization shall, if sanctioned by the court to which the application has been made, be binding on all the creditors or class of creditors, or on all the stockholders or class of stockholders of this corporation, as the case may be, and also on this corporation";* or

(B) *for a nonstock corporation: "Whenever a compromise or arrange-*

*ment is proposed between this corporation and its creditors or any class of them or between this corporation and its members or any class of them, any court of competent jurisdiction within the state of Kansas may, on the application in a summary way of this corporation or of any creditor or member thereof or on the application of any receiver or receivers appointed for this corporation under K.S.A. 17-6901, and amendments thereto, or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under the provisions of K.S.A. 17-6808 and 17-6901, and amendments thereto, order a meeting of the creditors or class or creditors, or of the members or class of members of this corporation, as the case may be, to be summoned in such manner as the court directs. If a majority in number representing $\frac{3}{4}$ in value of the creditors or class of creditors, or of the members or class of members of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangement, ~~such compromise or arrangement and the~~ *such* reorganization shall, if sanctioned by the court to which the application has been made, ~~shall~~ be binding on all the creditors or class of creditors, or on all the ~~stockholders~~ *members* or class of ~~stockholders~~ *members*, of this corporation, as the case may be, and also on this corporation”;*

(3) such provisions as may be desired granting to the holders of the stock of the corporation, or the holders of any class or series of a class thereof, the preemptive right to subscribe to any or all additional issues of stock of the corporation of any or all classes or series thereof, or to any securities of the corporation convertible into such stock. No stockholder shall have any preemptive right to subscribe to an additional issue of stock or to any security convertible into such stock unless, and except to the extent that, such right is expressly granted to such stockholder in the articles of incorporation. All such rights in existence on July 1, 1972, shall remain in existence unaffected by this paragraph ~~(3)~~ unless and until changed or terminated by appropriate action which expressly provides for such change or termination;

(4) provisions requiring for any corporate action, the vote of a larger portion of the stock or of any class or series thereof, or of any other securities having voting power, or a larger number of the directors, than is required by this ~~act~~ *code*;

(5) a provision limiting the duration of the corporation’s existence to a specified date; otherwise, the corporation shall have perpetual existence;

(6) a provision imposing personal liability for the debts of the corporation on its ~~stockholders or members~~ to a specified extent and upon specified conditions; otherwise, the ~~stockholders or members~~ of a corporation shall not be personally liable for the payment of the corporation’s debts except as they may be liable by reason of their own conduct or acts;

(7) the manner of adoption, alteration and repeal of bylaws; and

(8) a provision eliminating or limiting the personal liability of a director to the corporation or its stockholders, ~~policyholders or members~~ for monetary damages for breach of fiduciary duty as a director, provided that such provision shall not eliminate or limit the liability of a director: (A) For any breach of the director's duty of loyalty to the corporation or its stockholders, ~~policyholders or members~~; (B) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (C) under the provisions of K.S.A. 17-6424, and amendments thereto; or (D) for any transaction from which the director derived an improper personal benefit. No such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective. All references in this subsection to a director *also* shall be deemed ~~also~~ to refer to ~~a member of the governing body of a corporation which is not authorized to issue capital stock~~ such other person or persons, if any, who, pursuant to a provision of the articles of incorporation in accordance with K.S.A. 17-6301(a), and amendments thereto, exercise or perform any of the powers or duties otherwise conferred or imposed upon the board of directors by this code.

(c) It shall not be necessary to set forth in the articles of incorporation any of the powers conferred on corporations by this ~~act~~ code.

(d) *Except for provisions included pursuant to subsections (a)(1), (a)(2), (a)(5), (a)(6), (b)(2), (b)(5), (b)(7) and (b)(8), and provisions included pursuant to subsection (a)(4) specifying the classes, number of shares and par value of shares a corporation, other than a nonstock corporation, is authorized to issue, any provision of the articles of incorporation may be made dependent upon facts ascertainable outside such instrument, provided that the manner in which such facts shall operate upon the provision is clearly and explicitly set forth in the provision. As used in this subsection, the term "facts" includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.*

(e) *The articles of incorporation may not contain any provision that would impose liability on a stockholder for the attorney fees or expenses of the corporation or any other party in connection with an internal corporate claim, as defined in section 5, and amendments thereto.*

Sec. 16. K.S.A. 17-6004 is hereby amended to read as follows: 17-6004. The term "articles of incorporation," as used in this ~~act~~ code, unless the context requires otherwise, includes not only the original articles of incorporation filed to create a corporation, which includes the charter, articles of association and any other instrument by whatever name known which a corporation has been or may be lawfully formed, but it also includes all other certificates, agreements of merger or consolidation, plans of reorganization or other instruments, howsoever designated, which are

filed pursuant to K.S.A. ~~17-6002, 17-6203 to 17-6206, inclusive, 17-6401, 17-6601 to 17-6605, inclusive, 17-6701 to 17-6708, inclusive, and 17-6913~~ 2015 *Supp. 17-7910, and amendments thereto*, or any other section of this ~~act~~ *code*, and which have the effect of amending or supplementing in some respect a corporation's original articles of incorporation.

Sec. 17. K.S.A. 17-6006 is hereby amended to read as follows: 17-6006. Upon the filing with the secretary of state of the articles of incorporation, executed and filed in accordance with K.S.A. ~~17-6003~~ 2015 *Supp. 17-7908 through 17-7910*, and amendments thereto, the incorporator or incorporators who signed the certificate, and such incorporator's successors and assigns, shall be and constitute a body corporate from the date of such filing by the name set forth in the articles, subject to the provisions of ~~subsection (d) of K.S.A. 17-6003~~ K.S.A. 2015 *Supp. 17-7911*, and amendments thereto, and subject to dissolution or other termination of its existence as provided in this ~~act~~ *code*.

Sec. 18. K.S.A. 17-6007 is hereby amended to read as follows: 17-6007. If the persons who are to serve as directors until the first annual meeting of stockholders have not been named in the articles of incorporation, the incorporator or incorporators, until the directors are elected, shall manage the affairs of the corporation and may do whatever is necessary and proper ~~to obtain the necessary subscriptions for stock and~~ to perfect the organization of the corporation, including the adoption of the original bylaws of the corporation and the election of directors.

Sec. 19. K.S.A. 17-6008 is hereby amended to read as follows: 17-6008. (a) After the filing of the articles of incorporation an organization meeting of the incorporator or incorporators, or of the board of directors if the initial directors were named in the articles of incorporation, shall be held, either within or without this state, at the call of a majority of the incorporators or directors, as the case may be, for the purposes of: (1) Adopting bylaws, unless a different provision is made in the articles of incorporation for the adoption thereof; (2) electing directors, if the meeting is of the incorporators, to serve or hold office until the first annual meeting of stockholders or until their successors are elected and qualify; (3) electing officers if the meeting is of the directors; (4) doing any other or further acts to perfect the organization of the corporation; and (5) transacting such other business as may come before the meeting.

(b) The persons calling the meeting shall give to each other incorporator or director, as the case may be, at least two ~~(2)~~ days' written notice thereof by any usual means of communication, which notice shall state the time, place and purposes of the meeting as fixed by the persons calling it. Notice of the meeting need not be given to anyone who attends the meeting or who signs a waiver of notice either before or after the meeting.

(c) Any action permitted to be taken at the organization meeting of the incorporators or directors, as the case may be, may be taken without

a meeting if each incorporator or director, where there is more than one, or the sole incorporator or director where there is only one, signs an instrument which states the action so taken.

(d) If any incorporator is not available to act, then any person for whom or on whose behalf the incorporator was acting directly or indirectly as employee or agent, may take action that such incorporator would have been authorized to take under this section or K.S.A. 17-6007, and amendments thereto, except that any instrument signed by such other person, or any record of the proceedings of a meeting in which such person participated, shall state that: (1) Such incorporator is not available and the reason therefor; (2) such incorporator was acting directly or indirectly as employee or agent for or on behalf of such person; and (3) such person's signature on such instrument or participation in such meeting is otherwise authorized and not wrongful.

Sec. 20. K.S.A. 17-6009 is hereby amended to read as follows: 17-6009. (a) The right to adopt, amend or repeal bylaws of any corporation in existence on July 1, 1972, shall be vested in the corporation's board of directors, unless otherwise provided in such corporation's articles of incorporation and subject to the right of the stockholders to adopt, amend or repeal the bylaws. For all other corporations, the original or other bylaws of a corporation may be adopted, amended or repealed by the incorporators, unless the initial directors were named in the articles of incorporation, or, before a corporation has received any payment for any of its stock or, in the case of a nonstock corporation, before any person has been admitted to membership in the corporation, by its board of directors or governing body, as the case may be. After a corporation has received any payment for any of its stock or, in the case of a nonstock corporation, after any person has been admitted to membership in the corporation, the power to adopt, amend or repeal bylaws shall be in the stockholders entitled to vote or, in the case of a nonstock corporation, in its members entitled to vote except that, any corporation, in its articles of incorporation, may confer the power to adopt, amend or repeal bylaws upon the directors or, in the case of a nonstock corporation, upon its governing body by whatever name designated. The fact that such power has been so conferred upon the directors or governing body, as the case may be, shall not divest the stockholders or members of the power, nor limit their power to adopt, amend or repeal bylaws.

(b) The bylaws may contain any provision, not inconsistent with law or with the articles of incorporation, relating to the business of the corporation, the conduct of its affairs, and its rights or powers or the rights or powers of its stockholders, directors, officers or employees. *The bylaws may not contain any provision that would impose liability on a stockholder for the attorney fees or expenses of the corporation or any other*

party in connection with an internal corporate claim, as defined in section 5, and amendments thereto.

Sec. 21. K.S.A. 17-6010 is hereby amended to read as follows: 17-6010. (a) The board of directors of any corporation may adopt emergency bylaws, subject to repeal or change by action of the stockholders, which notwithstanding any different provision elsewhere in this ~~act~~ *code* or in chapters 17 and 66 of the Kansas Statutes Annotated, *and amendments thereto*, or in the articles of incorporation or bylaws, shall be operative during any emergency resulting from an attack on the United States or on a locality in which the corporation conducts its business or customarily holds meetings of its board of directors or its stockholders, or during any nuclear or atomic disaster, or during the existence of any catastrophe, or other similar emergency condition, as a result of which a quorum of the board of directors or a standing committee thereof cannot readily be convened for action. The emergency bylaws may make any provision that may be practical and necessary for the circumstances of the emergency, including provisions that:

~~(a)~~ (1) A meeting of the board of directors or a committee thereof may be called by any officer or director in such manner and under such conditions as shall be prescribed in the emergency bylaws;

~~(b)~~ (2) the director or directors in attendance at the meeting, or any greater number fixed by the emergency bylaws, shall constitute a quorum; and

~~(c)~~ (3) the officers or other persons designated on a list approved by the board of directors before the emergency, all in such order of priority and subject to such conditions and for such period of time ~~(, not longer than reasonably necessary after the termination of the emergency)~~, as may be provided in the emergency bylaws or in the resolution approving the list, shall be deemed directors ~~of the corporation~~ *for such meeting*, to the extent required to provide a quorum at any meeting of the board of directors.

(b) The board of directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that during such emergency any or all officers or agents of the corporation shall be rendered incapable of discharging their duties for any reason.

(c) The board of directors, either before or during any such emergency, may change the head office or designate several alternative head offices or regional offices, or authorize the offices so to do, effective in the emergency.

(d) No officer, director or employee acting in accordance with any emergency bylaws shall be liable except for willful misconduct.

(e) To the extent not inconsistent with any emergency bylaws so adopted, the bylaws of the corporation shall remain in effect during any

emergency, and upon its termination the emergency bylaws shall cease to be operative.

(f) Unless otherwise provided in emergency bylaws, notice of any meeting of the board of directors during such an emergency may be given only to such of the directors as it may be feasible to reach at the time and by such means as may be feasible at the time, including publication or radio.

(g) To the extent required to constitute a quorum at any meeting of the board of directors during such an emergency, and unless otherwise provided in emergency bylaws, the officers of the corporation who are present shall be deemed, in order of rank and within the same rank in order of seniority, directors for such meeting.

(h) Nothing contained in this section shall be deemed exclusive of any other provisions for emergency powers consistent with other sections of this ~~act~~ *code* which have been or may be adopted by corporations created under the provisions of this ~~act~~ *code*.

Sec. 22. K.S.A. 17-6101 is hereby amended to read as follows: 17-6101. (a) In addition to the powers enumerated in K.S.A. 17-6102, *and amendments thereto*, every corporation, its officers, directors, and stockholders shall possess and may exercise all the powers and privileges granted by this ~~act~~ *code* or by any other law or by its articles of incorporation, together with any powers incidental thereto, so far as such powers and privileges are necessary or convenient to the conduct, promotion or attainment of the business or purposes set forth in its articles of incorporation.

(b) Every corporation shall be governed by the provisions and be subject to the restrictions and liabilities contained in this ~~act~~ *code*.

Sec. 23. K.S.A. 17-6102 is hereby amended to read as follows: 17-6102. Every ~~domestic~~ corporation ~~subject to the provisions of this act created under this code~~ shall have power to:

(1) (a) Have perpetual succession by its corporate name, unless a limited period of duration is stated in its articles of incorporation;

(2) (b) sue and be sued in all courts and participate, as a party or otherwise, in any judicial, administrative, arbitratve or other proceeding, in its corporate name;

(3) (c) have a corporate seal, which may be altered at pleasure, and use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

(4) (d) purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated, and to sell, convey, lease, exchange, transfer or otherwise dispose of, or mortgage or pledge, all or any of its property and assets, or any interest therein, wherever situated;

~~(5)~~ (e) appoint such officers and agents as the business of the corporation requires and to pay or otherwise provide for them suitable compensation;

~~(6)~~ (f) adopt, amend and repeal bylaws;

~~(7)~~ (g) wind up and dissolve itself in the manner provided in this ~~act~~ *code*;

~~(8)~~ (h) conduct its business, carry on its operations and have offices and exercise its powers within or without this state;

~~(9)~~ (i) make donations for the public welfare or for charitable, scientific or educational purposes, and in time of war or other national emergency in aid thereof;

~~(10)~~ (j) be an incorporator, promoter or manager of other corporations of any type or kind;

~~(11)~~ (k) participate with others in any corporation, partnership, limited partnership, joint venture or other association of any kind, or in any transaction, undertaking or arrangement which the participating corporation would have power to conduct by itself, whether or not such participation involves sharing or delegation of control with or to others;

~~(12)~~ (l) transact any lawful business which the corporation's board of directors shall find to be in aid of governmental authority;

~~(13)~~ (m) make contracts, including contracts of guaranty and suretyship, incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds and other obligations, and secure any of its obligations by mortgage, pledge or other encumbrance of all or any of its property, franchises and income, and make contracts of guaranty and suretyship which are necessary or convenient to the conduct, promotion or attainment of the business of: ~~(A)~~ (1) A corporation all of the outstanding stock of which is owned, directly or indirectly, by the contracting corporation; ~~(B)~~ (2) a corporation which owns, directly or indirectly, all of the outstanding stock of the contracting corporation; or ~~(C)~~ (3) a corporation all of the outstanding stock of which is owned, directly or indirectly, by a corporation which owns, directly or indirectly, all of the outstanding stock of the contracting corporation, which contracts of guaranty and suretyship shall be deemed to be necessary or convenient to the conduct, promotion or attainment of the business of the contracting corporation, and make other contracts of guaranty and suretyship which are necessary or convenient to the conduct, promotion or attainment of the business of the contracting corporation;

~~(14)~~ (n) lend money for its corporate purposes, invest and reinvest its funds and take, hold and deal with real and personal property as security for the payment of funds so loaned or invested;

~~(15)~~ (o) pay ~~pension~~ *pensions* and establish and carry out pension, profit sharing, stock option, stock purchase, stock bonus, retirement, benefit, incentive and compensation plans, trusts and provisions for any or

all of its directors, officers, and employees, and for any or all of the directors, officers, and employees of its subsidiaries;

~~(16)~~ (p) provide insurance for its benefit on the life of any of its directors, officers or employees, or on the life of any stockholder for the purpose of acquiring at such stockholder's death shares of its stock owned by such stockholder; and

~~(17)~~ (q) renounce, in its articles of incorporation or by action of its board of directors, any interest or expectancy of the corporation in, or in being offered an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the corporation or one or more of its officers, directors or stockholders.

Sec. 24. K.S.A. 17-6104 is hereby amended to read as follows: 17-6104. No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(a) In a proceeding by a stockholder against the corporation to enjoin the doing of any act or acts or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed or made pursuant to any contract to which the corporation is a party, the court may ~~set aside and enjoin the performance of such contract~~, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, *set aside and enjoin the performance of such contract*, and in so doing may allow to the corporation or to the other parties to the contract, as the case may be, such compensation as may be equitable for the loss or damage sustained by any of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained;

(b) in a proceeding by the corporation, whether acting directly or through a receiver, trustee or other legal representative, or through stockholders in a representative suit, against an incumbent or former officer or director of the corporation, for loss or damage due to ~~his such incumbent or former officer's or director's~~ unauthorized act; *and*

(c) in a proceeding by the attorney general to dissolve the corporation, or to enjoin the corporation from the transaction of unauthorized business.

Sec. 25. K.S.A. 17-6106 is hereby amended to read as follows: 17-6106. (a) ~~Unless authority is expressly conferred by another law of this state,~~ No corporation *organized under this code* shall possess the power

of issuing bills, notes or other evidences of debt for circulation as money, or the power of carrying on the business of receiving deposits of money.

(b) Corporations organized *under this code* to buy, sell and otherwise deal in notes, open accounts and other similar evidences of debt, or to loan money and to take notes, open accounts and other similar evidences of debt as collateral security therefor, shall not be deemed to be engaging in the business of banking.

Sec. 26. K.S.A. 17-6301 is hereby amended to read as follows: 17-6301. (a) The business and affairs of every corporation *organized under this code* shall be managed by or under the direction of a board of directors, except as may be otherwise provided in this ~~act~~ *code* or in the articles of incorporation. If any such provision is made in the articles of incorporation, the powers and duties conferred or imposed upon the board of directors by this ~~act~~ *code* shall be exercised or performed to such extent and by such person or persons as shall be provided in the articles of incorporation.

(b) The board of directors of a corporation shall consist of one or more members, each of whom shall be a natural person. The number of directors shall be fixed by, or in the manner provided in, the bylaws, unless the articles of incorporation ~~establish~~ *fixes* the number of directors, in which case a change in the number of directors shall be made only by amendment of the articles. Directors need not be stockholders unless so required by the articles of incorporation or the bylaws. The articles of incorporation or bylaws may prescribe other qualifications for directors. Each director shall hold office until ~~a such director's~~ *a such director's* successor is elected and qualified or until such director's earlier resignation or removal. Any director may resign at any time upon notice given in writing or by electronic transmission to the corporation. *A resignation is effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. A resignation which is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable.* A majority of the total number of directors shall constitute a quorum for the transaction of business unless the articles of incorporation or the bylaws require a greater number. Unless the articles of incorporation provide otherwise, the bylaws may provide that a number less than a majority shall constitute a quorum which in no case shall be less than $\frac{1}{3}$ of the total number of directors except that, when a board of one director is authorized under ~~the provisions of~~ *this section*, ~~then~~ *one* director shall constitute a quorum. The vote of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors; unless the articles of incorporation or the bylaws shall require a vote of a greater number.

(c) (1) All corporations incorporated prior to July 1, 2004, shall be

governed by ~~paragraph subsection (c)(2)~~, except that any such corporation may by a resolution adopted by a majority of the whole board elect to be governed by ~~paragraph subsection (c)(3)~~, in which case ~~paragraph subsection (c)(2)~~ shall not apply to such corporation. All corporations incorporated on or after July 1, 2004, shall be governed by ~~paragraph subsection (c)(3)~~.

(2) The board of directors may ~~designate~~, by resolution passed by a majority of the whole board, *designate* one or more committees, each committee to consist of one or more of the directors of the corporation. The board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. The bylaws may provide that, in the absence or disqualification of a member of a committee, the member or members ~~thereof~~ present at any meeting and not disqualified from voting, whether or not ~~such~~ the member or members *present* constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the board of directors, or in the bylaws of the corporation, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it, ~~and, but no such committee shall have the power or authority in reference to: (A) Amending the articles of incorporation, except that a committee may, to the extent authorized in the resolution or resolutions providing for the issuance of shares of stock adopted by the board of directors as provided in K.S.A. 17-6401, and amendments thereto, may fix the designations and any of the preferences or rights of such shares relating to dividends, redemption, dissolution, any distribution of assets of the corporation or the conversion into, or the exchange of such shares for, shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation or fix the number of shares of any series of stock or authorize the increase or decrease of the shares of any series; but no such committee shall have the power or authority in reference to amending the articles of incorporation; (B) adopting an agreement of merger or consolidation pursuant to K.S.A. 17-6701 or 17-6702, and amendments thereto, recommending to the stockholders the sale, lease or exchange of all or substantially all of the corporation's property and assets, recommending to the stockholders a dissolution of the corporation or a revocation of a dissolution, or amending the bylaws of the corporation; and, or (C) unless the resolution, bylaws or articles of incorporation expressly so provide provides, no such committee shall have the power or authority to declare a dividend or, to authorize the issuance of stock or to adopt a certificate of ownership and merger pursuant to K.S.A. 17-6703, and amendments thereto.~~

(3) The board of directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. The bylaws may provide that in the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting *in the place of any such absent or disqualified member*. Any such committee, to the extent provided in the resolution of the board of directors, or in the bylaws of the corporation, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it, but no such committee shall have the power or authority in reference to the following matters: (A) Approving or adopting, or recommending to the stockholders, any action or matter, *other than the election or removal of directors*, expressly required by this ~~act~~ *code* to be submitted to stockholders for approval; or (B) adopting, amending or repealing any bylaw of the corporation.

(4) Unless otherwise provided in the articles of incorporation, the bylaws or the resolution of the board of directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

(d) The directors of any corporation *organized under this code* may be divided into one, two or three classes by the articles of incorporation or by an initial bylaw, or by a bylaw adopted by a vote of the stockholders; the term of office of those of the first class to expire at the *first* annual meeting ~~next ensuing~~ *held after such classification becomes effective*; of the second class one year thereafter; of the third class two years thereafter; and at each annual election held after such classification ~~and election~~ *becomes effective*, directors shall be chosen for a full term, as the case may be, to succeed those whose terms expire. *The articles of incorporation or bylaw provision dividing the directors into classes may authorize the board of directors to assign members of the board already in office to such classes at the time such classification becomes effective.* The articles of incorporation may confer upon holders of any class or series of stock the right to elect one or more directors who shall serve for such term, and have such voting powers; as *shall be stated* in the articles of incorporation. The terms of office and voting powers of the directors elected ~~in the manner so provided in the articles of incorporation~~ *separately by the holders of any class or series of stock* may be greater than

or less than those of any other director or class of directors. *In addition, the articles of incorporation may confer upon one or more directors, whether or not elected separately by the holders of any class or series of stock, voting powers greater than or less than those of other directors. Any such provision conferring greater or lesser voting power shall apply to voting in any committee or subcommittee, unless otherwise provided in the articles of incorporation or bylaws.* If the articles of incorporation provide that ~~one or more directors elected by the holders of a class or series of stock~~ shall have more or less than one vote per director on any matter, every reference in this ~~act~~ *code* to a majority or other proportion of ~~the~~ directors shall refer to a majority or other proportion of the votes of ~~such the~~ directors.

(e) A member of the board of directors ~~of any corporation~~, or a member of any committee designated by the board of directors, shall ~~be fully protected~~, in the performance of such member's duties, *be fully protected* in relying in good faith upon the records of the corporation and upon such information, opinions, reports or statements presented to the corporation by any of the corporation's officers or employees, or committees of the board of directors, or by any other person as to matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the corporation.

(f) Unless otherwise restricted by the articles of incorporation or bylaws, any action required or permitted to be taken at any meeting of the board of directors or of any committee thereof may be taken without a meeting if all members of the board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. *Any person, whether or not then a director, may provide, whether through instruction to an agent or otherwise, that a consent to action will be effective at a future time, including a time determined upon the happening of an event, no later than 60 days after such instruction is given or such provision is made and such consent shall be deemed to have been given for purposes of this subsection at such effective time so long as such person is then a director and did not revoke the consent prior to such time. Any such consent shall be revocable prior to its becoming effective.*

(g) Unless otherwise restricted by the articles of incorporation or bylaws, the board of directors of any corporation organized under this ~~act~~ *code* may hold its meetings, and have an office or offices, outside of this state.

(h) Unless otherwise restricted by the articles of incorporation or by-

laws, the board of directors shall have the authority to fix the compensation of directors.

(i) Unless otherwise restricted by the articles of incorporation or by-laws, members of the board of directors of any corporation, or any committee designated by ~~such~~ *the* board, may participate in a meeting of such board, or committee by means of conference telephone or ~~similar~~ *other* communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at ~~such~~ *the* meeting.

(j) ~~The articles of incorporation of any nonstock corporation organized under this act which is not authorized to issue capital stock may provide that less than 1/3 of the members of the governing body may constitute a quorum thereof and may otherwise provide that the business and affairs of the corporation shall be managed in a manner different from that provided in this section. Except as may be otherwise provided by the articles of incorporation, the provisions of this section shall apply to such a corporation, and; when so applied, all references to: (1) The board of directors, to members thereof and to stockholders shall be deemed to refer to the governing body of the corporation, the members thereof and the members of the corporation, respectively; and (2) stock, capital stock or shares thereof shall be deemed to refer to memberships of a nonprofit nonstock corporation and to membership interests of any other nonstock corporation.~~

(k) ~~Any number of directors~~ *director* or the entire board of directors may be removed, with or without cause, by the holders of a majority of the ~~outstanding~~ shares then entitled to vote at an election of directors, except as follows:

(1) Unless the articles of incorporation otherwise provides, in the case of a corporation whose board is classified as provided in subsection (d), ~~shareholders~~ *stockholders* may effect such removal only for cause; or

(2) in the case of a corporation having cumulative voting ~~for directors~~, if less than the entire board is to be removed, no director may be removed without cause if the ~~shares voted~~ *votes cast* against such director's removal would be sufficient to elect such director if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which such director is a part.

Whenever the holders of any class or series are entitled to elect one or more directors by the ~~provisions of the~~ articles of incorporation, ~~the provisions of~~ this subsection shall apply, in respect to the removal without cause of a director or directors so elected, to the vote of the holders of the outstanding shares of that class or series and not to the vote of the outstanding shares as a whole.

Sec. 27. K.S.A. 17-6302 is hereby amended to read as follows: 17-

6302. (a) Every corporation organized under this ~~act~~ *code* shall have such officers with such titles and duties as shall be stated in the bylaws or in a resolution of the board of directors which is not inconsistent with the bylaws and as may be necessary to enable it to sign instruments and stock certificates which comply with ~~subsection (a)(2) of K.S.A. 17-6003 and K.S.A. 17-6408 and K.S.A. 2015 Supp. 17-7908(a)(2),~~ and amendments thereto. One of the officers shall have the duty to record the proceedings of the meetings of the stockholders and directors in a book to be kept for that purpose. Any number of offices may be held by the same person unless the articles of incorporation or bylaws otherwise provide.

(b) Officers shall be chosen in such manner and shall hold their offices for such terms as are prescribed by the bylaws or determined by the board of directors or other governing body. Each officer shall hold ~~the~~ office until such officer's successor is elected and qualified or until such officer's earlier resignation or removal. Any officer may resign at any time upon *written* notice ~~given in writing or by electronic transmission~~ to the corporation.

(c) The corporation may secure the fidelity of any or all of its officers or agents by bond or otherwise.

(d) A failure to ~~select a corporation's officers in accordance with the requirements of the bylaws or a resolution adopted by the board of directors or other governing body~~ *elect officers* shall not dissolve or otherwise affect ~~a~~ *the* corporation.

(e) Any vacancy occurring in any office of the corporation by death, resignation, removal or otherwise shall be filled as the bylaws provide. In the absence of such provision, the vacancy shall be filled by the board of directors or other governing body.

Sec. 28. K.S.A. 17-6304 is hereby amended to read as follows: 17-6304. (a) No contract or transaction between a corporation and one or more of its directors or officers, or between a corporation and any other corporation, partnership, association or other organization in which one or more of its directors or officers, are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the board or committee ~~thereof~~ which authorizes the contract or transaction, or solely because ~~his or their~~ *any such director's or officer's* votes are counted for such purpose, if:

(1) The material facts as to ~~his~~ *the director's or officer's* relationship or interest and as to the contract or transaction are disclosed or are known to the board of directors or the committee, and the board or committee in good faith ~~authorized~~ *authorizes* the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; ~~or~~

(2) the material facts as to ~~his~~ *the director's or officer's* relationship

or interest and as to the contract or transaction are disclosed or are known to the ~~shareholders~~ *stockholders* entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the ~~shareholders~~ *stockholders*; or

(3) the contract or transaction is fair as to the corporation as of the time it is authorized, approved or ratified by the board of directors, a committee ~~thereof~~ or the ~~shareholders~~ *stockholders*.

(b) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or of a committee which ~~authorized~~ *authorizes* the contract or transaction.

Sec. 29. K.S.A. 2015 Supp. 17-6305 is hereby amended to read as follows: 17-6305. (a) A corporation shall have power to indemnify any person who was or is a party; or is threatened to be made a party; to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the corporation, by reason of the fact that ~~such~~ *the* person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, *including attorney fees*, judgments, fines and amounts paid in settlement actually and reasonably incurred by ~~such~~ *the* person in connection with such action, suit or proceeding, ~~including attorney fees, if such~~ *if the* person acted in good faith and in a manner ~~such~~ *the* person reasonably believed to be in or not opposed to the best interests of the corporation; and, with respect to any criminal action or proceeding, had no reasonable cause to believe ~~such~~ *the* person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which ~~such~~ *the* person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that ~~such~~ *the* person's conduct was unlawful.

(b) A corporation shall have power to indemnify any person who was or is a party; or is threatened to be made a party; to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that ~~such~~ *the* person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, *including attorney fees*, actually and reasonably incurred by ~~such~~ *the* person in connection with the defense or settlement of such action or suit, ~~including attorney fees, if such~~

if the person acted in good faith and in a manner—such the person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the district court or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the district court or such other court shall deem proper.

(c) To the extent that a present or former director, ~~or officer, employee or agent~~ of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue or matter therein, ~~such director, officer, employee or agent~~ *person* shall be indemnified against expenses, *including attorney fees*, actually and reasonably incurred by such person in connection therewith, ~~including attorney fees~~.

(d) Any indemnification under subsections (a) and (b), unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because ~~such director, officer, employee or agent~~ *the person* has met the applicable standard of conduct set forth in subsections (a) and (b). Such determination shall be made, with respect to a person who is a director or officer *of the corporation* at the time of such determination: (1) By a majority vote of the directors who ~~were~~ *are* not parties to such action, suit or proceeding, even though less than a quorum; (2) by a committee of such directors designated by majority vote of such directors, even though less than a quorum; (3) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion; or (4) by the stockholders.

(e) Expenses, including attorney fees, incurred by ~~a director or officer~~ *an officer or director of the corporation* in defending ~~a any~~ civil, criminal, administrative or investigative action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of ~~the such~~ director or officer to repay such amount if it ~~is~~ *shall* ultimately be determined that ~~the director or officer~~ *such person* is not entitled to be indemnified by the corporation as authorized in this section. Such expenses, including attorney fees, incurred by former directors and officers or ~~incurred by~~ other employees and agents *of the corporation or by persons serving at the request of the corporation as directors, officers, employees or agents of another corporation, partnership, joint venture, trust or other enterprise* may be so paid upon such terms and conditions, if any, as the ~~board of directors~~ *corporation* deems appropriate.

(f) The indemnification and advancement of expenses provided by, or granted pursuant to, the other subsections of this section shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in ~~a~~ *such* person's official capacity and as to action in another capacity while holding such office. A right to indemnification or to advancement of expenses arising under a provision of the articles of incorporation or a bylaw shall not be eliminated or impaired by an amendment to ~~such provision~~ *the articles of incorporation or the bylaws* after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought, unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred.

(g) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability ~~under the provisions of this section.~~

(h) For purposes of this section, references to "the corporation" shall include, in addition to the resulting corporation, any constituent corporation ~~(, including any constituent of a constituent),~~ absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this section with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

(i) For purposes of this section, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan; and references to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its

participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the corporation” as referred to in this section.

(j) The indemnification and advancement of expenses provided by, or granted pursuant to, this section shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(k) *The district court is hereby vested with jurisdiction to hear and determine all actions for advancement of expenses or indemnification brought under this section or under any bylaw, agreement, vote of stockholders or disinterested directors, or otherwise. The district court may summarily determine a corporation’s obligation to advance expenses, including attorney fees.*

Sec. 30. K.S.A. 17-6401 is hereby amended to read as follows: 17-6401. (a) Every corporation may issue one or more classes of stock or one or more series of stock within any class thereof, any or all of which classes may be of stock with par value or stock without par value and which classes or series may have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in the articles of incorporation or of any amendment thereto, or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation. Any of the *voting* powers, designations, preferences, rights and qualifications, limitations or restrictions of any such class or series of stock may be made dependent upon facts ascertainable outside the articles of incorporation or of any amendment thereto, or outside the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation, provided that the manner in which such facts shall operate upon the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of such class or series of stock is clearly and expressly set forth in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors. The term “facts,” as used in this subsection, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation. The power to increase or decrease or otherwise adjust the capital stock as provided in this ~~act~~ *code* shall apply to all or any such classes of stock.

(b) ~~The~~ Any stock of any class or series may be made subject to

redemption by the corporation at its option or at the option of the holders of such stock or upon the happening of a specified event. Immediately following any such redemption the corporation shall have outstanding one or more shares of one or more classes or series of stock, which share, or shares together, shall have full voting powers. Notwithstanding the foregoing limitation:

(1) Any stock of a regulated investment company registered under the investment company act of 1940~~—~~, 15 U.S.C. §§ 80a-1 et seq.~~—~~, and amendments thereto, may be made subject to redemption by the corporation at its option or at the option of the holders of such stock; and

(2) any stock of a corporation which holds directly or indirectly a license or franchise from a governmental agency to conduct its business or is a member of a national securities exchange, which license, franchise or membership is conditioned upon some or all of the holders of its stock possessing prescribed qualifications, may be made subject to redemption by the corporation to the extent necessary to prevent the loss of such license, franchise or membership or to reinstate it.

Any stock which may be made redeemable under this section may be redeemed for cash, property or rights, including securities of the same or another corporation, at such time or times, price or prices, or rate or rates, and with such adjustments, as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to subsection (a).

(c) The holders of preferred or special stock of any class or of any series thereof shall be entitled to receive dividends at such rates, on such conditions and at such times as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided, payable in preference to, or in such relation to, the dividends payable on any other class or classes or of any other series of stock, and cumulative or noncumulative as shall be so stated and expressed. When dividends upon the preferred and special stocks, if any, to the extent of the preference to which such stocks are entitled, shall have been paid or declared and set apart for payment, a dividend on the remaining class or classes or series of stock may then be paid out of the remaining assets of the corporation available for dividends as elsewhere in this ~~act~~ code provided.

(d) The holders of the preferred or special stock of any class or of any series thereof shall be entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the corporation as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors ~~as hereinabove provided~~.

(e) At the option of either the holder or the corporation or upon the happening of a specified event, any stock of any class or of any series

thereof may be made convertible into or exchangeable for shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation, at such price or prices or at such rate or rates of exchange and with such adjustments as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors ~~as hereinabove provided.~~

(f) If any corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights shall be set forth in full or summarized on the face or back of the certificate which the corporation shall issue to represent certificated shares of such class or series of stock. Except as otherwise provided in K.S.A. 17-6426, and amendments thereto, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the corporation issues to represent such class or series of stock, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights, or both. Within a reasonable time after the issuance or transfer of uncertificated stock, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to this section or K.S.A. 17-6406, ~~subsection (a) of K.S.A. 17-6426(a) or subsection (a) of K.S.A. 17-6508(a)~~, and amendments thereto, or with respect to this section a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights, or both. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

(g) When any corporation desires to issue any shares of stock of any class or of any series of any class of which the powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, if any, shall not have been set forth in the articles of incorporation or in any amendment thereto, but shall be provided for in a resolution or resolutions adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation or any amendment thereto, a certificate of designations setting forth a copy of such resolution or resolutions and the number of shares of stock of such class or series shall be executed ~~and in~~

accordance with K.S.A. 2015 Supp. 17-7908, and amendments thereto, filed in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7910, and amendments thereto, and shall become effective in accordance with K.S.A. 2015 Supp. 17-7911, and amendments thereto. Unless otherwise provided in any such resolution or resolutions, the number of shares of stock of any such series to which such resolution or resolutions apply may be increased, but not above the total number of authorized shares of the class, or decreased, but not below the number of shares thereof then outstanding, by a certificate likewise executed and filed setting forth a statement that a specified increase or decrease had been authorized and directed by a resolution or resolutions likewise adopted by the board of directors. In case the number of such shares shall be decreased, the number of shares specified in the certificate shall resume the status which they had prior to the adoption of the first resolution or resolutions. When no ~~share~~ shares of any such class or series are outstanding, either because none were issued or because no issued shares of any such class or series remain outstanding, a certificate setting forth a resolution or resolutions adopted by the board of directors that none of the authorized shares of such class or series are outstanding and that none will be issued, *subject to the certificate of designations previously filed with respect to such class or series,* may be executed *in accordance with K.S.A. 2015 Supp. 17-7908, and amendments thereto,* and filed in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7910, and amendments thereto. When such certificate becomes effective, it shall have the effect of eliminating from the articles of incorporation all ~~reference~~ matters set forth in the certificate of designations with respect to such class or series of stock. Unless otherwise provided in the articles of incorporation, if no shares of stock have been issued of a class or series of stock established by a resolution of the board of directors, the voting powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, may be amended by a resolution or resolutions adopted by the board of directors. A certificate which: (1) States that no shares of the class or series have been issued; (2) sets forth a copy of the resolution or resolutions; and (3) if the designation of the class or series is being changed, indicates the original designation and the new designation; shall be executed ~~and filed~~ *in accordance with K.S.A. 2015 Supp. 17-7908, and amendments thereto, filed in accordance with K.S.A. 2015 Supp. 17-7910, and amendments thereto,* and shall become effective in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7911, and amendments thereto. When any certificate filed under this subsection becomes effective, it shall have the effect of amending the articles of incorporation, except that neither the filing of such certificate nor the filing of restated articles of incorporation pursuant to K.S.A. 17-6605, and amendments thereto, shall prohibit the board of directors from subsequently adopting such resolutions as authorized by this subsection.

Sec. 31. K.S.A. 17-6402 is hereby amended to read as follows: 17-6402. The consideration, as determined pursuant to ~~subsections (a) and (b) of K.S.A. 17-6403(a) and (b)~~, and amendments thereto, for subscriptions to, or the purchase of, the capital stock to be issued by a corporation shall be paid in such form and in such manner as the board of directors shall determine. ~~In the absence of actual fraud in the transaction, the judgment of the directors as to the value of such consideration shall be conclusive.~~ The board of directors may authorize ~~shares~~ *capital stock* to be issued for consideration consisting of *cash*, any tangible or intangible property or *any* benefit to the corporation ~~including cash, promissory notes, services performed, contracts for services to be performed or other securities of the corporation.~~ Before the corporation issues shares, the board of directors must determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive as to the adequacy of consideration for the issuance of shares or any combination thereof. *The resolution authorizing the issuance of capital stock may provide that any stock to be issued pursuant to such resolution may be issued in one or more transactions in such numbers and at such times as are set forth in or determined by or in the manner set forth in the resolution, which may include a determination or action by any person or body, including the corporation, provided the resolution fixes a maximum number of shares that may be issued pursuant to such resolution, a time period during which such shares may be issued and a minimum amount of consideration for which such shares may be issued. The board of directors may determine the amount of consideration for which shares may be issued by setting a minimum amount of consideration or approving a formula by which the amount or minimum amount of consideration is determined. The formula may include or be made dependent upon facts ascertainable outside the formula, provided the manner in which such facts shall operate upon the formula is clearly and expressly set forth in the formula or in the resolution approving the formula. In the absence of actual fraud in the transaction, the judgment of the directors as to the value of such consideration shall be conclusive.* The capital stock so issued shall be deemed to be fully paid and nonassessable stock if: (a) ~~The entire amount of such consideration has been received by the corporation in the form of cash, services rendered, personal property, real property, leases of real property, or a combination thereof or forms authorized by the board of directors; or (b) not less than the amount of the consideration determined to be capital pursuant to K.S.A. 17-6404, and amendments thereto, has been received by the corporation in the form or forms authorized by the board of directors and the corporation has received a binding obligation of the subscriber or purchaser to pay the balance of the subscription or purchase price; provided, however, upon receipt by the corporation of such consideration,~~ *except that nothing contained herein shall prevent the board of directors*

from issuing partly paid shares under K.S.A. 17-6406, and amendments thereto.

Sec. 32. K.S.A. 17-6404 is hereby amended to read as follows: 17-6404. Any corporation, by resolution of its board of directors, may determine that only a part of the consideration which shall be received by the corporation for any of the shares of its capital stock which it shall issue from time to time shall be capital; but, in the event that any of the shares issued shall be shares having a par value, the amount of the part of such consideration so determined to be capital shall be in excess of the aggregate par value of the shares issued for such consideration having a par value, unless all the shares issued shall be shares having a par value, in which case the amount of the part of such consideration so determined to be capital need be only equal to the aggregate par value of such shares. In each such case, the board of directors shall specify in dollars the part of such consideration which shall be capital. If the board of directors shall not have determined what part of the consideration for such shares shall be capital~~(1)~~: (a) At the time of issue of any shares of the capital stock of the corporation issued for cash; or~~(2)~~ (b) within 60 days after the issue of any shares of the capital stock of the corporation issued for property other than cash, the capital of the corporation in respect of such shares shall be an amount equal to the aggregate par value of such shares having a par value, plus the amount of the consideration for such shares without par value. The amount of the consideration so determined to be capital in respect of any shares without par value shall be the stated capital of such shares. The capital of the corporation may be increased from time to time by resolution of the board of directors, directing that a portion of the net assets of the corporation in excess of the amount so determined to be capital be transferred to the capital account. The board of directors may direct that the portion of such net assets so transferred shall be treated as capital in respect of any shares of the corporation of any designated class or classes. At any given time, the excess, if any, of the net assets of the corporation over the amount so determined to be capital shall be surplus. Net assets means the amount by which total assets exceed total liabilities, but capital and surplus are not liabilities for this purpose. *Notwithstanding anything in this section to the contrary, for purposes of this section and K.S.A. 17-6410 and 17-6420, and amendments thereto, the capital of any nonstock corporation shall be deemed to be zero.*

Sec. 33. K.S.A. 17-6405 is hereby amended to read as follows: 17-6405. A corporation may issue, but shall not be required to issue, fractions of a share, ~~either represented by a certificate or uncertificated~~. If it does not issue fractions of a share, it shall~~(1)~~: (a) Arrange for the disposition of fractional interests by those entitled thereto~~(2)~~; (b) pay in cash the fair value of fractions of a share as of the time when those entitled to receive such fractions are determined~~; or(3)~~ (c) issue scrip or warrants

in registered form, *either represented by a certificate or uncertificated, or in bearer form, represented by a certificate*, which shall entitle the holder to receive a ~~certificate for a full share or an uncertificated~~ full share upon the surrender of such scrip or warrants aggregating a full share. A certificate for a fractional share or an uncertificated fractional share shall entitle the holder to exercise voting rights, to receive dividends thereon and to participate in any of the assets of the corporation in the event of liquidation, but scrip or warrants shall not so entitle the holder thereof, unless otherwise provided therein. The board of directors may cause scrip or warrants to be issued subject to the conditions that they shall become void if not exchanged for certificates representing full shares or for uncertificated full shares before a specified date, or subject to the conditions that the shares for which scrip or warrants are exchangeable may be sold by the corporation and the proceeds thereof distributed to the holders of scrip or warrants, or subject to any other conditions which the board of directors may impose.

Sec. 34. K.S.A. 17-6407 is hereby amended to read as follows: 17-6407. (a) Subject to any provisions in the articles of incorporation, every corporation may create and issue, whether or not in connection with the issue and sale of any shares of stock or other securities of the corporation, rights or options entitling the holders thereof to ~~purchase~~ *acquire* from the corporation any shares of its capital stock of any class or classes, such rights or options to be evidenced by or in such instrument or instruments as shall be approved by the board of directors.

(b) The terms upon which, including the time or times, which may be limited or unlimited in duration, at or within which, and the ~~price or prices~~ *consideration*, including a formula by which such ~~price or prices~~ *consideration* may be determined, ~~at for~~ which any such shares may be ~~purchased~~ *acquired* from the corporation upon the exercise of any such right or option, shall be such as shall be stated in the articles of incorporation, or in a resolution adopted by the board of directors providing for the creation and issue of such rights or options, and, in every case, shall be set forth or incorporated by reference in the instrument or instruments evidencing such rights or options. *A formula by which such consideration may be determined may include or be made dependent upon facts ascertainable outside the formula, provided the manner in which such facts shall operate upon the formula is clearly and expressly set forth in the formula or in the resolution approving the formula.* In the absence of actual fraud in the transaction, the judgment of the directors as to the consideration for the issuance of such rights or options and the sufficiency thereof shall be conclusive.

(c) The board of directors, by resolution adopted by the board, may authorize one or more officers of the corporation to do one or both of the following: (1) Designate officers and employees of the corporation or

any of its subsidiaries to be recipients of such rights or options created by the corporation; and (2) determine the number of such rights or options to be received by such officers and employees. The resolution so authorizing such officer or officers shall specify the total number of rights or options such officer or officers may award. The board of directors may not authorize an officer to designate the officer's self as a recipient of any such rights or options.

(d) In the event that the shares of stock ~~in~~ of the corporation to be issued upon the exercise of such rights or options shall be shares having a par value, the ~~price or prices~~ *consideration* so to be received therefor shall not be less than the par value thereof. In case the shares of stock so to be issued shall be shares of stock without par value, the consideration therefor shall be determined in the manner provided in K.S.A. 17-6403, and amendments thereto.

Sec. 35. K.S.A. 17-6408 is hereby amended to read as follows: 17-6408. The shares of a corporation shall be represented by certificates, except that the board of directors of the corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. ~~Notwithstanding the adoption of such a resolution by the board of directors, Every holder of stock represented by certificates and upon request every holder of uncertificated shares~~ shall be entitled to have a certificate signed by, or in the name of the corporation by the chairperson or vice-chairperson of the board of directors, or the president or vice-president, and by the treasurer or an assistant treasurer, or the secretary or assistant secretary of such corporation representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In the event that any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, such certificate may be issued by the corporation with the same effect as if the person were such officer, transfer agent or registrar at the date of issue. A corporation shall not have power to issue a certificate in bearer form.

Sec. 36. K.S.A. 17-6409 is hereby amended to read as follows: 17-6409. The shares of stock in every corporation shall be deemed personal property and transferable as provided in the acts contained in article 8 of chapter 84 of the Kansas Statutes Annotated, *and amendments thereto. No stock or bonds issued by any corporation organized under this code shall be taxed by this state when the same shall be owned by nonresidents of this state, or by foreign corporations.* Whenever any transfer of shares shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of the transfer if, when the certificates are pre-

sented to the corporation for transfer or uncertificated shares are requested to be transferred, both the transferor and transferee request the corporation to do so.

Sec. 37. K.S.A. 17-6410 is hereby amended to read as follows: 17-6410. (a) Every corporation may purchase, redeem, receive, take or otherwise acquire, own and hold, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own shares; provided, however, that no corporation shall:

(1) Purchase or redeem its own shares of capital stock for cash or other property when the capital of the corporation is impaired or when such purchase or redemption would cause any impairment of the capital of the corporation, except that a corporation *other than a nonstock corporation* may purchase or redeem out of capital any of its own shares which are entitled upon any distribution of its assets, whether by dividend or in liquidation, to a preference over another class or series of its stock, or, if no shares entitled to such a preference are outstanding, any of its own shares, if such shares will be retired upon their acquisition and the capital of the corporation reduced in accordance with K.S.A. 17-6603 and 17-6604, and amendments thereto. Nothing in this subsection shall invalidate or otherwise affect a note, debenture or other obligation of a corporation given by it as consideration for its acquisition by purchase, redemption or exchange of its shares of stock if at the time such note, debenture or obligation was delivered by the corporation its capital was not then impaired or did not thereby become impaired;

(2) purchase, for more than the price at which they may then be redeemed, any of its shares which are redeemable at the option of the corporation; or

(3)(A) *in the case of a corporation other than a nonstock corporation*, redeem any of its shares unless their redemption is authorized by ~~sub-section (b) of K.S.A. 17-6401(b)~~, and amendments thereto, and then only in accordance with such section and the *articles of incorporation*; or

(B) *in the case of a nonstock corporation*, redeem any of its membership interests, unless their redemption is authorized by the *articles of incorporation* and then only in accordance with the *articles of incorporation*.

(b) Nothing in this section limits or affects a corporation's right to resell any of its shares theretofore purchased or redeemed out of surplus and which have not been retired, for such consideration as shall be fixed by the board of directors.

(c) Shares of its own capital stock belonging to the corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the corporation, shall neither be entitled to vote nor be counted for quorum purposes. Nothing in this section shall be construed as limi-

ting the right of any corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity.

(d) Shares which have been called for redemption shall not be deemed to be outstanding shares for the purpose of voting or determining the total number of shares entitled to vote on any matter on and after the date on which written notice of redemption has been sent to holders thereof and a sum sufficient to redeem such shares has been irrevocably deposited or set aside to pay the redemption price to the holders of the shares upon surrender of certificates therefor.

Sec. 38. K.S.A. 17-6412 is hereby amended to read as follows: 17-6412. (a) When the whole of the consideration payable for shares of a corporation has not been paid in, and the assets shall be insufficient to satisfy the claims of its creditors, each holder of or subscriber for such shares shall be bound to pay on each share held or subscribed for by such holder or subscriber the sum necessary to complete the amount of the unpaid balance of the consideration for which such shares were issued or are to be issued by the corporation.

(b) The amounts which shall be payable as provided in subsection (a) ~~of this section~~ may be recovered as provided in K.S.A. 17-7101, and amendments thereto, after a writ of execution against the corporation has been returned unsatisfied as provided in such section.

(c) Any person becoming an assignee or transferee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration therefor has not been paid shall not be personally liable for any unpaid portion of such consideration, but the transferor shall remain liable therefor.

(d) No person holding shares in any corporation as collateral security shall be personally liable as a stockholder, but the person pledging such shares shall be considered the holder thereof and shall be so liable. No executor, administrator, guardian, trustee or other fiduciary shall be personally liable as a stockholder, but the estate or funds held by such executor, administrator, guardian, trustee or other fiduciary in such fiduciary capacity shall be so liable.

(e) ~~Commencing with the date of~~ *No liability under this section or under K.S.A. 17-7101, and amendments thereto, shall be asserted more than six years after the date of issuance of the stock or the date of the subscription upon which the assessment is sought, the limitation of time prescribed by K.S.A. 60-511, and amendments thereto, shall be applicable to any liability asserted under this section or under K.S.A. 17-7101, and amendments thereto.*

(f) In any action by a receiver or trustee of an insolvent corporation or by a judgment creditor to obtain an assessment under this section, any stockholder or subscriber for stock of the insolvent corporation may appear and contest the claim or claims of such receiver or trustee.

Sec. 39. K.S.A. 17-6413 is hereby amended to read as follows: 17-6413. The capital stock of a corporation shall be paid for in such amounts and at such times as the directors may require. From time to time, the directors may demand payment, in respect of each share of stock not fully paid, of such sum of money as the necessities of the business may require, in the judgment of the board of directors, not exceeding in the whole the balance remaining unpaid on said stock, and such sum so demanded shall be paid to the corporation at such times and by such installments as the directors shall direct. The directors shall give written notice of the time and place of such payments to each holder of or subscriber for stock which is not fully paid at ~~his~~ *such holder's or subscriber's* last known post-office address, which notice shall be mailed at least ~~thirty~~ *thirty (30)* days before the time for such payment.

Sec. 40. K.S.A. 17-6414 is hereby amended to read as follows: 17-6414. When any stockholder fails to pay any installment or call upon ~~the~~ *such* stockholder's stock which may have been properly demanded by the directors, at the time when such payment is due, the directors may collect the amount of any such installment or call, or any balance thereof remaining unpaid, from ~~the~~ *such* stockholder by an action at law, or they shall sell at public sale such part of the shares of such delinquent stockholder as will pay all demands then due from ~~the~~ *such* stockholder with interest and all incidental expenses, and shall transfer the shares so sold to the purchaser, who shall be entitled to a certificate ~~for any of the shares which are certificated therefor~~. Notice of the time and place of such sale and of the sum due on each share shall be given at least one week before the sale by advertisement in a newspaper having general circulation in the county of this state where such corporation's registered office is located, and such notice shall be mailed by the corporation to such delinquent stockholder at ~~the~~ *such* stockholder's last known post office address, at least 20 days before such sale. If no bidder can be had to pay the amount due on the stock, and if the amount is not collected by an action at law, which may be brought within the county where the corporation has its registered office, within one year from the date of the bringing of such action at law, ~~the~~ *such* stock and the amount previously paid in by the delinquent stockholder on the stock shall be forfeited to the corporation.

Sec. 41. K.S.A. 17-6415 is hereby amended to read as follows: 17-6415. Unless otherwise provided by the terms of the subscription, a subscription for stock of a corporation to be formed shall be irrevocable, except with the consent of all other subscribers or the corporation, for a period of six ~~(6)~~ months from its date, ~~but nothing in this section shall be construed as limiting, modifying or abrogating the defense of fraud or estoppel or any other defense available in an action for the enforcement of a contract.~~

Sec. 42. K.S.A. 17-6416 is hereby amended to read as follows: 17-6416. A subscription for stock of a corporation, whether made before or after the formation of a corporation, shall not be enforceable against a subscriber, unless in writing and signed by the subscriber or by ~~his~~ *such subscriber's* agent.

Sec. 43. K.S.A. 17-6420 is hereby amended to read as follows: 17-6420. (a) The directors of every corporation, subject to any restrictions contained in its articles of incorporation, may declare and pay dividends upon the shares of its capital stock, ~~or to its members if the corporation is a nonstock corporation,~~ either: (1) Out of its surplus, as defined in and computed in accordance with K.S.A. 17-6404 and 17-6604, and amendments thereto; or (2) in case there shall be no such surplus, out of its net profits for the fiscal year in which the dividend is declared or the preceding fiscal year, or both. If the capital of the corporation, computed in accordance with K.S.A. 17-6404 and 17-6604, and amendments thereto, shall have been diminished by depreciation in the value of its property, or by losses, or otherwise, to an amount less than the aggregate amount of the capital represented by the issued and outstanding stock of all classes having a preference upon the distribution of assets, the directors of such corporation shall not declare and pay out of such net profits any dividends upon any shares of any classes of its capital stock until the deficiency in the amount of capital represented by the issued and outstanding stock of all classes having a preference upon the distribution of assets shall have been repaired. Nothing in this subsection shall invalidate or otherwise affect a note, debenture or other obligation of the corporation paid by it as a dividend on shares of its stock, or any payment made thereon, if at the time such note, debenture or obligation was delivered by the corporation, the corporation had either surplus or net profits as provided in ~~clause~~ *paragraph* (1) or (2) from which the dividend could lawfully have been paid.

(b) Subject to any restrictions contained in its articles of incorporation, the directors of any corporation engaged in the exploitation of wasting assets, including but not limited to a corporation engaged in the exploitation of natural resources or other wasting assets, including patents, or engaged primarily in the liquidation of specific assets, may determine the net profits derived from the exploitation of such wasting assets or the net proceeds derived from such liquidation without taking into consideration the depletion of such assets resulting from lapse of time, consumption, liquidation or exploitation of such assets.

Sec. 44. K.S.A. 17-6422 is hereby amended to read as follows: 17-6422. A member of the board of directors, or a member of any committee designated by the board of directors, shall be fully protected in relying in good faith upon the records of the corporation and upon such information, opinions, reports or statements presented to the corporation by any

of its officers or employees, or committees of the board of directors, or by any other person as to matters the director reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the corporation, as to the value and amount of the assets, liabilities or net profits, ~~or both~~ of the corporation or any other facts pertinent to the existence and amount of surplus or other funds from which dividends might properly be declared and paid, or with which the corporation's stock might properly be purchased or redeemed.

Sec. 45. K.S.A. 17-6425 is hereby amended to read as follows: 17-6425. Except as otherwise provided in this ~~act~~ *code*, the transfer of stock and the certificates ~~representing certificated and~~ *of stock which represent the stock or* uncertificated ~~shares of~~ stock shall be governed by article 8 of the uniform commercial code, *as set forth in article 8 of chapter 84 of the Kansas Statutes Annotated*, and amendments thereto. *To the extent that any provision of this code is inconsistent with any provision of such article, this code shall be controlling.*

Sec. 46. K.S.A. 17-6426 is hereby amended to read as follows: 17-6426. (a) A written restriction *or restrictions* on the transfer or registration of transfer of a security of a corporation, or on the amount of the corporation's securities that may be owned by any ~~securities holder or a group of securities holders~~ *person or group of persons*, if permitted by this section and noted conspicuously on the certificate *or certificates* representing the security *or securities so restricted*, or, in the case of uncertificated shares, contained in the notice *or notices* sent pursuant to ~~subsection (f) of~~ K.S.A. 17-6401(f), and amendments thereto, may be enforced against the holder of the restricted security *or securities* or any successor or transferee of the holder, including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder. Unless noted conspicuously on the certificate *or certificates* representing the security *or securities so restricted*, or, in the case of uncertificated shares, contained in the notice *or notices* sent pursuant to ~~subsection (f) of~~ K.S.A. 17-6401(f), and amendments thereto, *a* restriction, even though permitted by this section, is ineffective except against a person with actual knowledge of the restriction.

(b) A restriction on the transfer or registration of transfer of securities of a corporation, or on the amount of ~~the~~ *a* corporation's securities that may be owned by any ~~securities holder or a group of securities holders~~ *person or group of persons*, may be imposed ~~either~~ by the articles of incorporation or by the bylaws or by an agreement among any number of security holders or among such holders and the corporation. No restriction so imposed shall be binding with respect to securities issued prior

to the adoption of the restriction unless the holders of the securities are parties to an agreement or voted in favor of the restriction.

(c) A restriction on the transfer or registration of transfer of securities of a corporation or on the amount of such securities that may be owned by ~~any securities holder or group of securities holders~~ *person or group of persons* is permitted by this section if it:

(1) Obligates the holder of the restricted securities to offer to the corporation or to any other holders of securities of the corporation or to any other person or to any combination of the foregoing, a prior opportunity, to be exercised within a reasonable time, to acquire the restricted securities;

(2) obligates the corporation or any holder of securities of the corporation or any other person or any combination of the foregoing, to purchase the securities which are the subject of an agreement respecting the purchase and sale of the restricted securities;

(3) requires the corporation or the holders of any class or series of securities of the corporation to consent to any proposed transfer of the restricted securities or to approve the proposed transferee of the restricted securities, or to approve the amount of securities of the corporation that may be owned by ~~any securities holder or group of securities holders~~ *person or group of persons*;

(4) obligates the holder of the restricted securities to sell or transfer an amount of restricted securities to the corporation or to any other holders of securities of the corporation or to any other person or to any combination of the foregoing, or causes or results in the automatic sale or transfer of an amount of restricted securities to the corporation or to any other holders of securities of the corporation or to any other person or to any combination of the foregoing; or

(5) prohibits or restricts the transfer of the restricted securities to, or the ownership of restricted securities by, designated persons or classes of persons or groups of persons, and such designation is not manifestly unreasonable.

(d) Any restriction on the transfer or the registration of transfer of the securities of a corporation, or on the amount of securities of a corporation that may be owned by ~~a securities holder or group of securities holders~~ *person or group of persons*, for any of the following purposes shall be conclusively presumed to be for a reasonable purpose: (1) Maintaining any local, state, federal or foreign tax advantage to the corporation or its stockholders, including without limitation: (A) Maintaining the corporation's status as an electing small business corporation under subchapter S of the United States internal revenue code, 26 U.S.C. § 1371 et seq.; (B) maintaining or preserving any tax attribute, including without limitation net operating losses; or (C) qualifying or maintaining the qualification of the corporation as a real estate investment trust pursuant to the United States internal revenue code or regulations adopted pursuant to

the United States internal revenue code; or (2) maintaining any statutory or regulatory advantage or complying with any statutory or regulatory requirements under applicable local, state, federal or foreign law.

(e) Any other lawful restriction on transfer or registration of transfer of securities, or on the amount of securities that may be owned by any person or group of persons, is permitted by this section.

Sec. 47. K.S.A. 17-6501 is hereby amended to read as follows: 17-6501. (a) (1) Meetings of stockholders may be held at such place, either within or without this state, as may be designated by or in the manner provided in the articles of incorporation; ~~or bylaws or, if not so designated, as determined by the board of directors. If, pursuant to this subsection or the articles of incorporation or the bylaws of the corporation,~~ the board of directors is authorized to determine the place of a meeting of stockholders, the board of directors, in its sole discretion, may determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as authorized by ~~paragraph~~ *subsection* (a)(2).

(2) If authorized by the board of directors in its sole discretion, and subject to such guidelines and procedures as the board of directors may adopt, stockholders and ~~proxy holders~~ *proxyholders* not physically present at a meeting of stockholders may, by means of remote communication:

(A) Participate in a meeting of stockholders; and

(B) be deemed present in person and vote at a meeting of stockholders whether such meeting is to be held at a designated place or solely by means of remote communication, provided that: (i) The corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or ~~proxy holder~~ *proxyholder*; (ii) the corporation shall implement reasonable measures to provide such stockholders and ~~proxy holders~~ *proxyholders* a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings; and (iii) if any stockholder or ~~proxy holder~~ *proxyholder* votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the corporation.

(b) Unless directors are elected by written consent in lieu of an annual meeting as permitted by this subsection, an annual meeting of stockholders shall be held for the election of directors on a date and at a time designated by or in the manner provided in the bylaws. Stockholders, unless the articles of incorporation otherwise provide, may act by written consent to elect directors; except that, if such consent is less than unanimous, such action by written consent may be in lieu of holding an annual meeting only if all of the directorships to which directors could be elected

at an annual meeting held at the effective time of such action are vacant and are filled by such action. Any other proper business may be transacted at the annual meeting.

~~(c)(1) If the articles of incorporation or bylaws of a corporation registered under the investment company act of 1940 so provide, the corporation is only required to hold an annual meeting in any year in which the election of directors is required to be acted upon under the investment company act of 1940.~~

~~(2) If a corporation is required under paragraph (1) to hold a meeting of stockholders to elect directors, the meeting shall be designated as the annual meeting of stockholders for that year.~~

~~(d)(1) A failure to hold any annual meeting at the designated time or to elect a sufficient number of directors to conduct the business of the corporation shall not affect otherwise valid corporate acts or work a forfeiture or dissolution of the corporation, except as may be otherwise specifically provided in this act code. If the annual meeting for election of directors is not held on the date designated therefor or action by written consent to elect directors, in lieu of an annual meeting, has not been taken, the directors shall cause the meeting to be held as soon thereafter as is convenient. If there be a failure to hold the annual meeting or to take action by written consent to elect directors in lieu of an annual meeting for a period of 30 days after the date designated for the annual meeting, or if no date has been designated for a period of 13 months after the latest to occur of the organization of the corporation, its last annual meeting or the last action by written consent to elect directors in lieu of an annual meeting, the district court may summarily order a meeting to be held upon the application of any stockholder or director. The shares of stock represented at such meeting, either in person or by proxy, and entitled to vote thereat, shall constitute a quorum for the purpose of such meeting, notwithstanding any provision of the articles of incorporation or bylaws to the contrary. The district court may issue such orders as may be appropriate, including, without limitation, orders designating the time and place of such meeting, the record date or dates for determination of stockholders entitled to notice of the meeting and to vote at such meeting, and the form of notice of such meeting.~~

~~(2) If a corporation is required under paragraph (1) of subsection (c) to hold a meeting of stockholders to elect directors, the meeting shall be held no later than 120 days after the occurrence of the event requiring the meeting.~~

~~(e)(d) Special meetings of the stockholders may be called by the board of directors or by such person or persons as may be authorized by the articles of incorporation or by the bylaws.~~

~~(f)(e) All elections of directors shall be by written ballot, unless otherwise provided in the articles of incorporation. If authorized by the board of directors, such requirement of a written ballot shall be satisfied by a~~

ballot submitted by electronic transmission, provided that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder or ~~proxy holder~~ *proxyholder*.

Sec. 48. K.S.A. 17-6502 is hereby amended to read as follows: 17-6502. (a) Unless otherwise provided in the articles of incorporation and subject to the provisions of K.S.A. 17-6503, and amendments thereto, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder. If the articles of incorporation provide for more or less than one vote for any share on any matter, every reference in this ~~act code~~ to a majority or other proportion of stock shall refer to such majority or other proportion of the votes of such stock.

(b) Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for the stockholder by proxy as provided in this subsection, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

(c) Without limiting the manner in which a stockholder may authorize another person or persons to act for such stockholder as proxy pursuant to subsection (b), the following shall constitute a valid means by which a stockholder may grant such authority:

(1) A stockholder may execute a writing authorizing another person or persons to act for such stockholder as proxy. Execution may be accomplished by the stockholder or the stockholder's authorized officer, director, employee or agent signing the writing or causing the stockholder's signature to be affixed to the writing by any reasonable means, including, but not limited to, facsimile signature; and

(2) a stockholder may authorize another person or persons to act *for such stockholder* as proxy by transmitting, or authorizing the transmission of, a ~~telegram, cablegram, or other~~ means of electronic transmission, including telephonic transmission, to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization, or like agent duly authorized by the person who will ~~act as~~ *be the holder of the proxy* to receive the transmission, provided that any such ~~telegram, cablegram or other means of~~ electronic transmission must either set forth or be submitted with information from which it can be determined that the ~~stockholder authorized the transmission~~ *electronic transmission was authorized by the stockholder. If it is determined that such electronic transmissions are valid, the inspectors or, if there are no inspectors, such other persons making that determination shall specify the information upon which they relied.*

(d) A copy, facsimile telecommunication, or other reliable reproduction of the writing or transmission authorized under ~~paragraphs~~ *subsec-*

tions (c)(1) and (c)(2) may be substituted for the original writing or transmission for any purpose for which the original writing or transmission could be used, except that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

(e) A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the corporation generally.

Sec. 49. K.S.A. 17-6503 is hereby amended to read as follows: 17-6503. (a) In order that the corporation may determine the stockholders entitled to notice ~~of or to vote at~~ any meeting of stockholders or any adjournment thereof, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the board of directors, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. ~~If no record is fixed by the board of directors,~~ *so fixes a date, such date shall also be* the record date for determining the stockholders entitled to ~~notice of or~~ *vote at such meeting unless the board of directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the board of directors, the record date for determining stockholders entitled to notice of and to vote* at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting except that the board of directors may fix a new record date for *determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the foregoing provisions of this subsection at the adjourned meeting.*

(b) In order that the corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the board of directors may fix a record date which record date shall not precede the date upon which the resolution fixing the record date is adopted by the board of directors, and which date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the board of directors. If no record date has been fixed by the board of directors, the record date for determining stockholders entitled to con-

sent to corporate action in writing without a meeting, when no prior action by the board of directors is required by this ~~act~~ *code*, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the corporation by delivery to its registered office in this state, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the board of directors and prior action by the board of directors is required by this ~~act~~ *code*, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the board of directors adopts the resolution taking such prior action.

(c) In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the board of directors adopts the resolution relating thereto.

Sec. 50. K.S.A. 17-6505 is hereby amended to read as follows: 17-6505. (a) The provisions of K.S.A. 17-6501 ~~to through~~ 17-6504 and 17-6506, and amendments thereto, shall not apply to *nonstock* corporations ~~not authorized to issue stock~~, except that ~~subsection (a) of K.S.A. 17-6501(a) and subsection (c) and (d) of K.S.A. 17-6502(c), (d) and (e), and amendments thereto, shall apply to such corporations, and, when so applied, all references therein to: (1) Stockholders and to the board of directors shall be deemed to refer to the members and the governing body of a nonstock corporation, respectively; and (2) stock, capital stock, or shares thereof shall be deemed to refer to memberships of a nonprofit nonstock corporation and to membership interests of any other nonstock corporation.~~

(b) Unless otherwise provided in the articles of incorporation *or the bylaws* of a nonstock corporation, *and subject to subsection (f)*, each member shall be entitled at every meeting of members to one vote *on any matter submitted to a vote of members. A member may exercise such voting rights in person or by proxy, but no proxy shall be voted after three years from its date, unless the proxy provides for a longer period.*

(c) Unless otherwise provided in this ~~act~~ *code*, the articles of incor-

poration or bylaws of a nonstock corporation may specify the number of members having voting power who shall be present or represented by proxy at any meeting in order to constitute a quorum for, and the votes; ~~or portion thereof~~; that shall be necessary for, the transaction of any business. In the absence of such specification in the articles of incorporation or bylaws of a nonstock corporation;

(1) *One-third of the members of such corporation present in person or represented by proxy after proper notice has been given shall constitute a quorum at a meeting of such members;*

(2) *in all matters other than the election of the governing body of the corporation, the affirmative vote of a majority of such members present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the members, unless the vote of a greater number is required by this ~~act~~ code, the articles of incorporation or bylaws;*

~~(d)~~ (3) *members of the governing body shall be elected by a plurality of the votes of the members of the corporation present in person or represented by proxy at the meeting and entitled to vote thereon; and*

(4) *where a separate vote by a class or group or classes or groups is required, a majority of the members of such class or group or classes or groups, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter and, in all matters other than the election of members of the governing body, the affirmative vote of the majority of the members of such class or group or classes or groups present in person or represented by proxy at the meeting shall be the act of such class or group or classes or groups.*

~~(e)~~ (d) *If the election of the governing body of any nonstock corporation shall not be held within the time period designated by the bylaws, the governing body shall cause the election to be held as soon thereafter as convenient. The failure to hold such an election within the time period shall not work any forfeiture or dissolution of the corporation, but the district court may summarily order such an election to be held upon the application of any member of the corporation. At any election pursuant to such order, the persons entitled to vote in such election who shall be present at such meeting, either in person or by proxy, shall constitute a quorum for such meeting, notwithstanding any provision of the articles of incorporation or the bylaws of the corporation to the contrary.*

~~(f)~~ (e) *If authorized by the governing body, any requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission, provided that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the member or proxy holder.*

(f) *Except as otherwise provided in the articles of incorporation, in the bylaws, or by resolution of the governing body, the record date of any*

meeting or corporate action shall be deemed to be the date of such meeting or corporate action, except that no record date may precede any action by the governing body fixing such record date.

Sec. 51. K.S.A. 17-6506 is hereby amended to read as follows: 17-6506. Subject to the provisions of this ~~act~~ *code* with respect to the vote that shall be required for a specified action, the articles of incorporation or bylaws of any corporation authorized to issue stock may specify the number of shares or the amount of other securities, or both, having voting power, the holders of which shall be present or represented by proxy at any meeting in order to constitute a quorum for, and the votes that shall be necessary for, the transaction of any business, but in no event shall a quorum consist of holders of less than $\frac{1}{3}$ of the shares entitled to vote at the meeting, except that, where a separate vote by the holders of ~~a class or series or classes or series~~ *one or more than one class or series* is required, a quorum shall consist of no less than $\frac{1}{3}$ of the holders of the shares of such class or series ~~or classes or series~~. In the absence of such specification in the articles of incorporation or bylaws of the corporation:

(a) The holders of a majority of the shares entitled to vote, present in person or represented by proxy, shall constitute a quorum at a meeting of stockholders;

(b) in all matters other than the election of directors, the affirmative vote of the holders of a majority of shares who are present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders;

(c) directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors; and

(d) where a separate vote by ~~a class or classes or series~~ *one or more than one class or series* is required, the holders of a majority of the outstanding shares of such class ~~or classes or series~~, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter and, *in all matters other than the election of directors*, the affirmative vote of the holders of a majority of shares of such class ~~or classes or series~~ who are present in person or represented by proxy at the meeting shall be the act of such class ~~or classes or series~~. *A bylaw amendment adopted by the stockholders which specifies the votes that shall be necessary for the election of directors shall not be further amended or repealed by the board of directors.*

Sec. 52. K.S.A. 17-6508 is hereby amended to read as follows: 17-6508. (a) One or more stockholders, by agreement in writing, may deposit capital stock of an original issue with or transfer capital stock to any person or persons, or entity or entities authorized to act as trustee, for the purpose of vesting in such person or persons, entity or entities, who may be designated voting trustee, or voting trustees, the right to vote thereon for

any period of time determined by such agreement, upon the terms and conditions stated in such agreement. The agreement may contain any other lawful provisions not inconsistent with such purpose. After ~~the filing~~ *delivery* of a copy of the agreement ~~in to~~ the registered office of the corporation in this state *or the principal place of business of the corporation*, which copy shall be open to the inspection of any stockholder of the corporation, or any beneficiary of the trust under the agreement, daily during business hours, certificates of stock or uncertificated stock shall be issued to the voting trustee or trustees to represent any stock of an original issue so deposited with such voting trustee or trustees, and any certificates of stock or uncertificated stock so transferred to the voting trustee or trustees shall be surrendered and canceled and new certificates or uncertificated stock therefor shall be issued to the voting trustee or trustees. In the certificates so issued, if any, it shall be stated that they are issued pursuant to such agreement, or in the case of uncertificated shares, contained in the notice sent pursuant to ~~subsection (f) of K.S.A. 17-6401(f)~~, and amendments thereto, and that fact shall also be stated in the stock ledger of the corporation. The voting trustee or trustees may vote the stock so issued or transferred during the period specified in the agreement. Stock standing in the name of the voting trustee or trustees may be voted either in person or by proxy, and in voting the stock, the voting trustee or trustees shall incur no responsibility as stockholder, trustee or otherwise, except for such voting trustee's or trustees' individual malfeasance. In any case where two or more persons or entities are designated as voting trustees, and the right and method of voting any stock standing in their names at any meeting of the corporation are not fixed by the agreement appointing the trustees, the right to vote the stock and the manner of voting it at the meeting shall be determined by a majority of the trustees, or if they be equally divided as to the right and manner of voting the stock in any particular case, the vote of the stock in such case shall be divided equally among the trustees.

(b) Any amendment to a voting trust agreement shall be made by a written agreement, a copy of which shall be ~~filed in~~ *delivered to* the registered office of the corporation in this state *or the principal place of business of the corporation*.

(c) An agreement between two or more stockholders, if in writing and signed by the parties thereto, may provide that in exercising any voting rights, the shares held by them shall be voted as provided by the agreement, or as the parties may agree, or as determined in accordance with a procedure agreed upon by them.

(d) This section shall not be deemed to invalidate any voting or other agreement among stockholders or any irrevocable proxy ~~which is not otherwise illegal~~.

Sec. 53. K.S.A. 17-6509 is hereby amended to read as follows: 17-

6509. (a) The officer who has charge of the stock ledger of a corporation shall prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, *except that if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the 10th day before the meeting date*, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Nothing contained in this section shall require the corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least 10 days prior to the meeting: (1) On a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting; or (2) during ordinary business hours, at the principal place of business of the corporation. In the event *that* the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

~~(b) Upon the willful neglect or refusal of the directors to produce such a list at any meeting for the election of directors held at a place, or to open such a list to examination on a reasonably accessible electronic network during any meeting for the election of directors held solely by means of remote communication, they shall be ineligible for election to any office at such meeting. If the corporation, or an officer or agent thereof, refuses to permit examination of the list by a stockholder, such stockholder may apply to the district court for an order to compel the corporation to permit such examination. The burden of proof shall be on the corporation to establish that the examination such stockholder seeks is for a purpose not germane to the meeting. The court may summarily order the corporation to permit examination of the list upon such conditions as the court may deem appropriate, and may make such additional orders as may be appropriate, including, without limitation, postponing the meeting or voiding the results of the meeting.~~

(c) The stock ledger shall be the only evidence as to who are the stockholders entitled by this section to examine the list required by this section or to vote in person or by proxy at any meeting of stockholders.

Sec. 54. K.S.A. 17-6510 is hereby amended to read as follows: 17-6510. (a) As used in this section:

(1) “Stockholder” means a holder of record of stock in a stock corporation, or a person who is the beneficial owner of shares of such stock held either in a voting trust or by a nominee on behalf of such person; ~~and also a member of a nonstock corporation as reflected on the records of the nonstock corporation;~~ (2) “list of stockholders” ~~includes lists of members in a nonstock corporation;~~

~~(3)~~ (2) “under oath” includes statements the declarant affirms to be true under penalty of perjury under the laws of the United States or any state; *and*

~~(4)~~ (3) “subsidiary” means any entity directly or indirectly owned, in whole or in part, by the corporation of which the stockholder is a stockholder and over the affairs of which the corporation directly or indirectly exercises control, and includes, without limitation, corporations, partnerships, limited partnerships, limited liability partnerships, limited liability companies, statutory trusts and/or joint ventures.

(b) Any stockholder, in person or by attorney or other agent, upon written demand under oath stating the purpose thereof, shall have the right during the usual hours for business to inspect for any proper purpose, and to make copies and extracts from:

(1) The corporation’s stock ledger, a list of its stockholders, and its other books and records; and

(2) a subsidiary’s books and records, to the extent that ~~(i)~~: (A) The corporation has actual possession and control of such records of such subsidiary; or ~~(ii)~~ (B) the corporation could obtain such records through the exercise of control over such subsidiary, provided that as of the date of the making of the demand ~~(A)~~: (i) Stockholder inspection of such books and records of the subsidiary would not constitute a breach of an agreement between the corporation or the subsidiary and a person or persons not affiliated with the corporation;; and ~~(B)~~ (ii) the subsidiary would not have the right under the law applicable to it to deny the corporation access to such books and records upon demand by the corporation. In every instance where the stockholder is other than a record holder of stock in a stock corporation or a member of a nonstock corporation, the demand under oath shall state the person’s status as a stockholder, be accompanied by documentary evidence of beneficial ownership of the stock and state that such documentary evidence is a true and correct copy of what it purports to be. A proper purpose shall mean a purpose reasonably related to such person’s interest as a stockholder. In every instance where an attorney or other agent shall be the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing which authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall

be directed to the corporation at its registered office in this state or at its principal place of business.

(c) If the corporation, or an officer or agent thereof, refuses to permit an inspection sought by a stockholder or attorney or other agent acting for the stockholder pursuant to subsection (b) or does not reply to the demand within five business days after the demand has been made, the stockholder may apply to the district court for an order to compel such inspection. The district court is hereby vested with exclusive jurisdiction to determine whether or not the person seeking inspection is entitled to the inspection sought. The court may summarily order the corporation to permit the stockholder to inspect the corporation's stock ledger, an existing list of stockholders, and its other books and records, and to make copies or extracts therefrom; or the court may order the corporation to furnish to the stockholder a list of its stockholders as of a specific date on condition that the stockholder first pay to the corporation the reasonable cost of obtaining and furnishing such list and on such other conditions as the court deems appropriate. Where the stockholder seeks to inspect the corporation's books and records, other than its stock ledger or list of stockholders, such stockholder shall first establish that:

(1) ~~he, she or it~~ *such stockholder* is a stockholder;

(2) such stockholder has complied with this section respecting the form and manner of making demand for inspection of such documents; and

(3) the inspection such stockholder seeks is for a proper purpose. Where the stockholder seeks to inspect the corporation's stock ledger or list of stockholders and *establishes that such stockholder is a stockholder and* has complied with this section respecting the form and manner of making demand for inspection of such documents, the burden of proof shall be upon the corporation to establish that the inspection such stockholder seeks is for an improper purpose. The court, in its discretion, may prescribe any limitations or conditions with reference to the inspection, or award such other or further relief as the court may deem just and proper. The court may order books, documents and records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought within this state and kept in this state upon such terms and conditions as the order may prescribe.

(d) Any director, ~~including a member of the governing body of a nonstock corporation,~~ shall have the right to examine the corporation's stock ledger, a list of its stockholders and its other books and records for a purpose reasonably related to the director's position as a director. The district court is hereby vested with the exclusive jurisdiction to determine whether a director is entitled to the inspection sought. The court may summarily order the corporation to permit the director to inspect any and all books and records, the stock ledger and the list of stockholders and to make copies or extracts therefrom. The burden of proof shall be upon

the corporation to establish that the inspection such director seeks is for an improper purpose. The court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other and further relief as the court may deem just and proper.

Sec. 55. K.S.A. 17-6512 is hereby amended to read as follows: 17-6512. (a) Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, *the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting*, and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

(b) Unless otherwise provided in this ~~act~~ *code*, the written notice of any meeting shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such *meeting as of the record date for determining the stockholders entitled to notice of the meeting*. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given shall be prima facie evidence of the facts stated therein in the absence of fraud.

(c) When a meeting is adjourned to another time or place, unless the bylaws otherwise require, notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, ~~or if after the adjournment a new record date is fixed for the adjourned meeting~~, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. *If, after the adjournment, a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the board of directors shall fix a new record date for notice of such adjourned meeting in accordance with K.S.A. 17-6503(a), and amendments thereto, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.*

Sec. 56. K.S.A. 17-6513 is hereby amended to read as follows: 17-6513. (a) (1) Unless otherwise provided in the articles of incorporation or

bylaws: ~~(1)~~ (A) Vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director; or ~~(2)~~ (B) whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the articles of incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

(2) If, at any time, by reason of death or resignation or other cause, a corporation should have no directors in office, then any receiver, officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the articles of incorporation or the bylaws, or may apply to the district court for a decree summarily ordering an election as provided in K.S.A. 17-6501 or 17-6505, and amendments thereto.

(3) If, at any time, in a corporation where the holders of any class or classes of stock or series thereof are entitled by the articles of incorporation to elect one or more directors, there is no director in office elected by the holders of any such class or series of stock, by reason of death or resignation or other cause, then any receiver, officer or any stockholder of such class or series, as the case may be, or an executor, administrator, trustee or guardian of any such stockholder, or other fiduciary entrusted with like responsibility for the person or estate of any such stockholder, may call a special meeting of stockholders of such class or series, in accordance with the provisions of the articles of incorporation or bylaws for calling a special meeting of stockholders, or may apply to the district court for a decree summarily ordering an election, as provided in K.S.A. 17-6501 or 17-6505, and amendments thereto.

(b) In the case of a corporation the directors of which are divided into classes, any directors chosen under subsection (a) shall hold office until the next election of the class for which such directors shall have been chosen, and until their successors shall be elected and qualified.

(c) If, at the time of filling any vacancy or any newly created directorship, the directors then in office shall constitute less than a majority of the whole board, as constituted immediately prior to any such increase, the district court, upon application of any stockholder or stockholders holding at least 10% of the total number of the shares at the time outstanding having the right to vote for such directors, may summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office

as aforesaid, which election shall be governed by the provisions of K.S.A. 17-6501 or 17-6505, and amendments thereto, as far as applicable.

(d) Unless otherwise provided in the articles of incorporation or by-laws, when one or more directors shall resign from the board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided in this section in the filling of other vacancies.

Sec. 57. K.S.A. 17-6514 is hereby amended to read as follows: 17-6514. Any records maintained by a corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or by means of, or be in the form of any information storage device or method provided that the records so kept can be converted into clearly legible paper form within a reasonable time. Any corporation shall so convert any records so kept upon the request of any person entitled to inspect ~~the same~~ *such records pursuant to any provision of this code*. When records are kept in such manner, a clearly legible paper form produced from or by the means of the information storage device or method shall be admissible in evidence and shall be accepted for all other purposes, to the same extent as an original paper record of the same information would have been, provided the paper form accurately portrays the record.

Sec. 58. K.S.A. 17-6515 is hereby amended to read as follows: 17-6515. (a) Upon application of any stockholder or director, or any officer whose title to office is contested, ~~or any member of a corporation without capital stock,~~ the district court may hear and determine the validity of any election, appointment, removal or resignation of any director, ~~member of the governing body,~~ or officer of any corporation, and the right of any person to hold or continue to hold such office, and, in case any such office is claimed by more than one person, may determine the person entitled thereto. In making such determination, the court may make such order or decree in any such case as may be just and proper, with power to enforce the production of any books, papers and records of the corporation relating to the issue. In case it should be determined that no valid election has been held, the court may order an election to be held in accordance with K.S.A. 17-6501 or 17-6505, and amendments thereto. In any such application, service of copies of the application upon the resident agent of the corporation shall be deemed to be service upon the corporation and upon the person whose title to office is contested and upon the person, if any, claiming such office; and the resident agent shall forward immediately a copy of the application to the corporation and to the person whose title to office is contested and to the person, if any, claiming such office, in a postpaid, sealed, registered letter addressed to such cor-

poration and such person at their post-office addresses last known to the resident agent or furnished to the resident agent by the applicant stockholder. The court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(b) ~~Upon application of any stockholder or any member of a corporation without capital stock upon application of the corporation itself, the district court may hear and determine the result of any vote of stockholders or members, as the case may be, upon matters other than the election of directors; or officers or members of the governing body.~~ Service of the application upon the resident agent of the corporation shall be deemed to be service upon the corporation, and no other party need be joined in order for the court to adjudicate the result of the vote. The court may make such order respecting notice of the application as it deems proper under the circumstances.

(c) *If one or more directors has been convicted of a felony in connection with the duties of such director or directors to the corporation, or if there has been a prior judgment on the merits by a court of competent jurisdiction that one or more directors has committed a breach of the duty of loyalty in connection with the duties of such director or directors to that corporation, then, upon application by the corporation, or derivatively in the right of the corporation by any stockholder, in a subsequent action brought for such purpose, the district court may remove from office such director or directors if the court determines that the director or directors did not act in good faith in performing the acts resulting in the prior conviction or judgment and judicial removal is necessary to avoid irreparable harm to the corporation. In connection with such removal, the court may make such orders as are necessary to effect such removal. In any such application, service of copies of the application upon the resident agent of the corporation shall be deemed to be service upon the corporation and upon the director or directors whose removal is sought and the resident agent shall forward immediately a copy of the application to the corporation and to such director or directors, in a postpaid, sealed, registered letter addressed to such corporation and such director or directors at their post office address last known to the resident agent or furnished to the resident agent by the applicant. The court may make such order respecting further or other notice of such application as it deems proper under the circumstances.*

Sec. 59. K.S.A. 17-6516 is hereby amended to read as follows: 17-6516. (a) The district court, upon application of any stockholder, may appoint one or more persons to be custodians and, if the corporation is insolvent, to be receivers, of and for any corporation when:

(1) At any meeting held for the election of directors the stockholders are so divided that they have failed to elect successors to directors whose

terms have expired or would have expired upon qualification of their successors; ~~or~~

(2) the business of the corporation is suffering or is threatened with irreparable injury because the directors are so divided respecting the management of the affairs of the corporation that the required vote for action by the board of directors cannot be obtained and the stockholders are unable to terminate this division; or

(3) the corporation has abandoned its business and has failed within a reasonable time to take steps to dissolve, liquidate or distribute its assets.

(b) A custodian appointed under this section shall have all the powers and title of a receiver appointed under K.S.A. 17-6901, *and amendments thereto*, but the authority of the custodian is to continue the business of the corporation and not to liquidate its affairs and distribute its assets, except when the court shall otherwise order and except in cases arising under subsection (a)(3) ~~of this section or subsection (a)(2) of~~ or K.S.A. 17-7212(a)(2), *and amendments thereto*.

(c) *In the case of a charitable nonstock corporation, the applicant shall provide a copy of any application referred to in subsection (a) to the attorney general of the state of Kansas within one week of its filing with the district court.*

Sec. 60. K.S.A. 17-6517 is hereby amended to read as follows: 17-6517. (a) The district court, in any proceeding instituted under K.S.A. 17-6501, 17-6505 or 17-6515, and amendments thereto, may determine the right and power of persons claiming to own stock, ~~or in the case of a corporation without capital stock, of the persons claiming to be members,~~ to vote at any meeting of the stockholders ~~or members~~.

(b) The court may: (1) Appoint a master to hold any election provided for in K.S.A. 17-6501, 17-6505 or 17-6515, and amendments thereto, under such orders and powers as it deems proper; ~~and it may~~ (2) punish any officer or director for contempt in case of disobedience of any order made by the court; and; (3) in case of disobedience by a corporation of any order made by the court, may enter a decree against such corporation for a penalty of not more than ~~\$25,000~~ \$5,000.

Sec. 61. K.S.A. 17-6518 is hereby amended to read as follows: 17-6518. (a) Unless otherwise provided in the articles of incorporation, any action required by this ~~act~~ *code* to be taken at any annual or special meeting of stockholders of a corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, are signed by ~~all~~ the holders of outstanding stock ~~entitled to vote. Such consent or consents having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to~~

the corporation by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. *Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.*

(b) Unless otherwise provided in the articles of incorporation, any action required by this ~~act~~ code to be taken at a meeting of the members of a nonstock corporation, or any action which may be taken at any meeting of the members of a nonstock corporation, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, are signed by members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members having a right to vote *thereon* were present and voted and shall be delivered to the corporation by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of members are recorded. *Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.*

(c) Every written consent shall bear the date of signature of each stockholder or member who signs the consent ~~or consents~~, and no written consent shall be effective to take the corporate action referred to ~~in the consent or consents~~ therein unless, within 60 days of the earliest dated consent delivered in the manner required by this section to the corporation, written ~~consent~~ consents signed by a sufficient number of holders or members to take action are delivered to the corporation by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded. *Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Any person executing a consent may provide, whether through instruction to an agent or otherwise, that such a consent will be effective at a future time, including a time determined upon the happening of an event, no later than 60 days after such instruction is given or such provision is made, and, for the purposes of this section, if evidence of such instruction or provision is provided to the corporation, such later effective time shall serve as the date of signature. Unless otherwise provided, any such consent shall be revocable prior to its becoming effective.*

(d) (1) ~~A telegram, cablegram or other~~ Any electronic transmission consenting to an action to be taken and transmitted by a stockholder, member or ~~proxy holder~~ proxyholder, or by a person or persons authorized to act for a stockholder, member or ~~proxy holder~~ proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such ~~telegram, cablegram or other~~ electronic

transmission sets forth or is delivered with information from which the corporation can determine: (A) That the ~~telegram, cablegram or other~~ electronic transmission was transmitted by the stockholder, member or ~~proxy holder~~ *proxyholder* or by a person or persons authorized to act for the stockholder, member or ~~proxy holder~~ *proxyholder*; and (B) the date on which such stockholder, member or ~~proxy holder~~ *proxyholder* or authorized person or persons transmitted such ~~telegram, cablegram or~~ electronic transmission. The date on which such ~~telegram, cablegram or~~ electronic transmission is transmitted shall be deemed to be the date on which such consent ~~or consents were~~ *was* signed. No consent ~~or consents~~ given by ~~telegram, cablegram or other~~ electronic transmission shall be deemed to have been delivered until such consent ~~or consents are~~ *is* reproduced in paper form and until such paper form shall be delivered to the corporation by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded. *Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.* Notwithstanding the foregoing limitations on delivery, any consent or consents given by ~~telegram, cablegram or other~~ electronic transmission, may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders *or members* are recorded if, to the extent and in the manner provided by resolution of the board of directors or governing body of the corporation.

(2) Any copy, facsimile or other reliable reproduction of a consent ~~or consents~~ in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

(e) Prompt notice of the taking of ~~nonstock~~ *any* corporate action without a meeting by less than unanimous written consent shall be given to those *stockholders or* members who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for *notice of* such meeting had been the date that a written consent or consents signed by a sufficient number of *stockholders or* members to take the action were delivered to the corporation as provided in subsection (c). In the event that the action which is consented to is such as would have required the filing of a certificate under any other section of this ~~act~~ *code*, if such action had been voted on by *stockholders or* members at a meeting thereof, the certificate filed under such other section shall state, in lieu of any statement required by such section concerning any vote of *stockholders or* members, that written consent has been given in accordance with the provisions of this section.

Sec. 62. K.S.A. 17-6521 is hereby amended to read as follows: 17-6521. (a) In advance of any meeting of stockholders, the corporation shall appoint one or more inspectors to act at the meeting and make a written report thereof. The corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Before entering upon the discharge of the duties of inspector, each inspector shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability.

(b) The inspectors shall:

(1) Ascertain the number of shares outstanding and the voting power of each;

(2) determine the shares represented at a meeting and the validity of proxies and ballots;

(3) count all votes and ballots;

(4) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors; and

(5) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors.

(c) The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting. No ballot, proxies or votes, nor any revocations thereof or changes thereto, shall be accepted by the inspectors after the closing of the polls unless the district court upon application by a stockholder determines otherwise.

(d) In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted with those proxies, any information provided in accordance with ~~subsection (f) of K.S.A. 17-6501(f) or subsection (c)(2) of 17-6502(c)(2)~~, and amendments thereto, or any information provided pursuant to ~~subsection (a)(2)(B)(i) or (iii) of K.S.A. 17-6501(a)(2)(B)(i) or (iii)~~, and amendments thereto, ballots and the regular books and records of the corporation, except that the inspectors may consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for the limited purpose permitted herein, the inspectors at the time they make their certification pursuant to subsection (b)(5) shall specify the

precise information considered by them including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the basis for the inspectors' belief that such information is accurate and reliable.

(e) Unless otherwise provided in the articles of incorporation or by-laws, this section shall not apply to a corporation that does not have a class of voting stock that is:

- (1) Listed on a national securities exchange;
- (2) authorized for quotation on an interdealer quotation system of a registered national securities association; or
- (3) held of record by more than 2,000 stockholders.

~~(f) This section shall be part of and supplemental to the Kansas general corporation code, and amendments thereto.~~

Sec. 63. K.S.A. 17-6522 is hereby amended to read as follows: 17-6522. (a) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation under any ~~provisions~~ *provision* of this ~~act code~~, the articles of incorporation, or the bylaws shall be effective if given by a form of electronic transmission consented to by the ~~stockholders~~ *stockholder* to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any such consent shall be deemed revoked if: (1) The corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent; and (2) such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice. The inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

(b) Notice given pursuant to subsection (a) shall be deemed given: (1) If by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (2) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (3) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of: (A) Such posting; and (B) the giving of such separate notice; and (4) if by any other form of electronic transmission, when directed to the stockholder. An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission, in the absence of fraud, shall be prima facie evidence of the facts stated therein.

(c) For purposes of this ~~act code~~, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and re-

viewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

~~(d) This section shall apply to a corporation organized under this act that is not authorized to issue capital stock, and when so applied, all references to stockholders shall be deemed to refer to members of such a corporation.~~

~~(e) This section shall not apply to K.S.A. 17-6414, 17-6906, 17-7001 or 17-7002, and amendments thereto.~~

~~(f) This section shall be a part of and supplemental to the Kansas general corporation code, and amendments thereto.~~

Sec. 64. K.S.A. 17-6523 is hereby amended to read as follows: 17-6523. (a) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation under any provision of this chapter, the articles of incorporation or the bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation.

(b) Any stockholder who fails to object in writing to the corporation, within 60 days of having been given written notice by the corporation of its intention to send the single notice permitted under subsection (a), shall be deemed to have consented to receiving such single written notice.

~~(c) This section shall apply to a corporation organized under this chapter that is not authorized to issue capital stock, and when so applied, all references to stockholders shall be deemed to refer to members of such a corporation.~~

~~(d) This section shall not apply to K.S.A. 17-6414, 17-6906, 17-7001, and 17-7002, and amendments thereto.~~

~~(e) This section shall be part of and supplemental to the Kansas general corporation code, and amendments thereto.~~

Sec. 65. K.S.A. 2015 Supp. 17-6601 is hereby amended to read as follows: 17-6601. (a) Before a corporation has received any payment for any of its stock, it may amend its articles of incorporation at any time or times, in any and as many respects as may be desired, so long as its articles of incorporation, as amended, would contain only such provisions as it would be lawful and proper to insert in an original articles of incorporation filed at the time of filing the amendment.

(b) The amendment of the articles of incorporation authorized by this section shall be adopted by a majority of the incorporators, if directors were not named in the original articles of incorporation or have not yet been elected, or, if directors were named in the original articles of incorporation or have been elected and have qualified, by a majority of the directors. A certificate setting forth the amendment and certifying that the corporation has not received any payment for any of its stock, *or that*

the corporation has no members, as applicable, and that the amendment has been duly adopted in accordance with the provisions of this section shall be executed and filed in accordance with K.S.A. 2015 Supp. 17-7908 through 17-7910, and amendments thereto. Upon the effectiveness of such filing, the corporation's articles of incorporation shall be deemed to be amended accordingly as of the date on which the original articles of incorporation became effective except as to those persons who are substantially and adversely affected by the amendment and as to those persons the amendment shall be effective from the filing date.

(c) This section shall apply to a nonstock corporation before such corporation has any members, except that all references to directors shall be deemed to be references to members of the governing body of the corporation.

Sec. 66. K.S.A. 2015 Supp. 17-6602 is hereby amended to read as follows: 17-6602. (a) After a corporation has received payment for any of its capital stock, *or after a nonstock corporation has members*, it may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation, as amended, would contain only such provisions as it would be lawful and proper to insert in an original articles of incorporation filed at the time of the filing of the amendment. If a change in stock or the rights of stockholders, or an exchange, reclassification, *subdivision, combination* or cancellation of stock or rights of stockholders is to be made, the amendment to the articles of incorporation shall contain such provisions as may be necessary to effect such change, exchange, reclassification, *subdivision, combination* or cancellation. In particular, and without limitation upon such general power of amendment, a corporation may amend its articles of incorporation, from time to time, so as:

- (1) To change its corporate name;
- (2) to change, substitute, enlarge or diminish the nature of its business or its corporate powers and purposes;
- (3) to increase or decrease its authorized capital stock or to reclassify the same, by changing the number, par value, designations, preferences, or relative, participating, optional or other special rights of the shares, or the qualifications, limitations or restrictions of such rights, or by changing shares with par value into shares without par value, or shares without par value into shares with par value either with or without increasing or decreasing the number of shares, *or by subdividing or combining the outstanding shares of any class or series into a greater or lesser number of outstanding shares*;
- (4) to cancel or otherwise affect the right of the holders of the shares of any class to receive dividends which have accrued but have not been declared;
- (5) to create new classes of stock having rights and preferences either

prior and superior or subordinate and inferior to the stock of any class then authorized, whether issued or unissued; ~~or~~

(6) to change the period of its duration. Any or all such changes or alterations may be effected by one certificate of amendment; or

(7) *to delete: (A) Such provisions of the original articles of incorporation which named the incorporator or incorporators, the initial board of directors and the original subscribers for shares; and (B) such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination or cancellation has become effective.*

~~(b) Notwithstanding the provisions of subsection (c), the board of directors of a corporation that is registered or intends to register as an open-end investment company under the investment company act of 1940, 15 U.S.C. § 80a-1 et seq., after the registration takes effect, by resolution, may approve the amendment of the articles of incorporation of the corporation to: (1) Increase or decrease the aggregate number of shares of stock or the number of shares of any class of stock that the corporation has authority to issue; or (2) authorize the issuance of an indefinite number of shares of any such stock, unless a provision has been included in the charter of the corporation after July 1, 1995, prohibiting such action by the board of directors without stockholder approval. A certificate setting forth the amendment and certifying that such amendment has been duly adopted in accordance with the provisions of this section shall be executed and filed, and shall become effective, in accordance with K.S.A. 2015 Supp. 17-7910, and amendments thereto. If the board of directors authorizes the issuance of an indefinite number of shares of any class of stock of the corporation pursuant to this subsection, such authorization shall be disclosed wherever the corporation would otherwise be required by law to disclose the total number of authorized shares of any such class of stock of the corporation.~~

~~(c) Except as provided in subsection (b), Every amendment authorized by subsection (a) shall be made and effected in the following manner:~~

~~(1) If the corporation has capital stock, its board of directors shall adopt a resolution setting forth the amendment proposed, declaring its advisability, and either calling a special meeting of the stockholders entitled to vote for the consideration of such amendment or directing that the amendment proposed be considered at the next annual meeting of the stockholders, *except that unless otherwise expressly required by the articles of incorporation, no meeting or vote of stockholders shall be required to adopt an amendment that effects only changes described in subsection (a)(1) or (a)(7).* Such special or annual meeting shall be called and held upon notice in accordance with K.S.A. 17-6512, and amendments thereto. The notice shall set forth such amendment in full or a brief summary of the changes to be effected thereby, ~~as the directors~~~~

~~shall deem advisable unless such notice constitutes a notice of internet availability of proxy materials under the rules promulgated under the securities exchange act of 1934. At the meeting a vote of the stockholders entitled to vote thereon shall be taken for and against the any proposed amendment that requires adoption by stockholders. If no vote of stockholders is required to effect such amendment, or if a majority of the outstanding stock entitled to vote; thereon and a majority of the outstanding stock of each class entitled to vote thereon as a class has have been voted in favor of the amendment, a certificate setting forth the amendment and certifying that such amendment has been duly adopted in accordance with the provisions of this section shall be executed and filed, and shall become effective, in accordance with K.S.A. 2015 Supp. 17-7910 17-7908 through 17-7911, and amendments thereto.~~

(2) The holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote *thereon* by the provisions of the articles of incorporation, if the amendment would increase or decrease the aggregate number of authorized shares of such class, increase or decrease the par value of the shares of such class, or alter or change the powers, preferences or special rights of the shares of such class so as to affect them adversely. If any proposed amendment would alter or change the powers, preferences or special rights of one or more series of any class so as to affect them adversely, but does not affect the entire class, then only the shares of the series affected by the amendment shall be considered a separate class for the purposes of this subsection. The number of authorized shares of any such class or classes of stock may be increased or decreased, but not below the number of shares *thereof* then outstanding, by the affirmative vote of the holders of a majority of the stock of the corporation entitled to vote *irrespective of this paragraph*, if so provided in the original articles of incorporation ~~or~~, in any amendment *thereto* which created *such class or classes of stock or which was adopted prior to the issuance of any shares of such class or classes of stock or in any amendment thereto* which was authorized by a resolution or resolutions adopted by the affirmative vote of the holders of a majority of such class or classes of stock.

(3) ~~If the corporation has no capital stock is a nonstock corporation,~~ then the governing body of the corporation shall adopt a resolution setting forth the amendment proposed and declaring its advisability. ~~If at a subsequent meeting, held not earlier than 15 days and not later than 60 days from the meeting at which such resolution has been passed,~~ a majority of all the members of the governing body shall vote in favor of such amendment, a certificate thereof shall be executed and filed, and shall become effective, in accordance with K.S.A. 2015 Supp. 17-7910 17-7908 through 17-7911, and amendments thereto. The articles of incorporation of any ~~such nonstock corporation without capital stock~~ may contain a provision requiring any amendment *thereto* to be approved by a specified

number or percentage of the members or of any specified class of members of such corporation; in which event ~~only one meeting of the governing body thereof shall be necessary, and~~ such proposed amendment shall be submitted to the members or to any specified class of members of such corporation ~~without capital stock~~ in the same manner, so far as applicable, as is provided in this section for an amendment to the articles of incorporation of a stock corporation. In the event of the adoption of such amendment, a certificate evidencing such amendment shall be executed and filed and shall become effective in accordance with K.S.A. 2015 Supp. ~~17-7910~~ 17-7908 through 17-7911, and amendments thereto.

(4) Whenever the articles of incorporation shall require for action by the board of directors *of a corporation other than a nonstock corporation or by the governing body of a nonstock corporation*, by the holders of any class or series of shares or by the *members, or by the* holders of any other securities having voting power the vote of a greater number or proportion than is required by any section of this ~~act~~ *code*, the provision of the articles of incorporation requiring such greater vote shall not be altered, amended or repealed except by such greater vote.

~~(d)~~ (c) The resolution authorizing a proposed amendment to the articles of incorporation may provide that at any time prior to the *effectiveness of the* filing of the amendment with the secretary of state, notwithstanding authorization of the proposed amendment by the stockholders of the corporation or by the members of a nonstock corporation, the board of directors or governing body may abandon such proposed amendment without further action by the stockholders or members.

Sec. 67. K.S.A. 17-6603 is hereby amended to read as follows: 17-6603. (a) A corporation, by resolution of its board of directors, may retire any shares of its capital stock that are issued but are not outstanding.

(b) Whenever any shares of the capital stock of a corporation are retired, they shall resume the status of authorized and unissued shares of the class or series to which they belong unless the articles of incorporation otherwise provides. If the articles of incorporation prohibits the reissuance of such shares, or prohibits the reissuance of such shares as a part of a specific series only, a certificate stating that reissuance of the shares, as part of the class or series, is prohibited, identifying the shares and reciting that their retirement shall be executed and filed and shall become effective in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7908 through 17-7911, and amendments thereto. When such certificate becomes effective, it shall have the effect of amending the articles of incorporation so as to reduce accordingly the number of authorized shares of the class or series to which such shares belong or, if such retired shares constitute all of the authorized shares of the class or series to which they belong, of eliminating from the articles of incorporation all reference to such class or series of stock.

(c) If the capital of the corporation shall be reduced by or in connection with the retirement of shares, the reduction of capital shall be effected pursuant to K.S.A. 17-6604, and amendments thereto.

Sec. 68. K.S.A. 17-6605 is hereby amended to read as follows: 17-6605. (a) Whenever it is desired, a corporation may integrate into a single instrument all of the provisions of its articles of incorporation which are then in effect and operative as a result of there having been filed with the secretary of state one or more certificates or other instruments pursuant to any of the sections referred to in K.S.A. 17-6004, and amendments thereto. Such corporation may at the same time also further amend its articles of incorporation by adopting a restated articles of incorporation.

(b) If the restated articles of incorporation merely restate and integrate but do not further amend the articles of incorporation, as theretofore amended or supplemented by any instrument that was filed pursuant to any of the sections mentioned in K.S.A. 17-6004, and amendments thereto, such restated articles may be adopted by the board of directors without a vote of the stockholders, or they may be proposed by the directors and submitted by them to the stockholders for adoption, in which case the procedure and vote required, *if any*, by K.S.A. 17-6602, and amendments thereto, for amendment of the articles of incorporation shall be applicable. If the restated articles of incorporation restate and integrate and also further amend in any respect the articles of incorporation, as theretofore amended or supplemented, they shall be proposed by the directors and adopted by the stockholders in the manner and by the vote prescribed by K.S.A. 17-6602, and amendments thereto, or, if the corporation has not received any payment for any of its stock, in the manner and by the vote prescribed by K.S.A. 17-6601, and amendments thereto.

(c) Any restated articles of incorporation shall be specifically designated as such in ~~its~~ *the* heading. They shall state, either in the heading or in an introductory paragraph, the corporation's present name, and, if it has been changed, the name under which it was originally incorporated, and the date of filing of its original articles of incorporation with the secretary of state. Any restated articles shall also state that they were duly adopted by the directors or stockholders, as the case may be, in accordance with the provisions of this section. If they were adopted by the board of directors without a vote of the stockholders ~~unless it was~~ adopted pursuant to the provisions of K.S.A. 17-6601, *and amendments thereto, or without vote of the members pursuant to K.S.A. 2015 Supp. 17-7910*, and amendments thereto, they shall state that they only restate and integrate and do not further amend, *except, if applicable, as permitted under K.S.A. 17-6002(a)(1) and (b)(1), and amendments thereto*, the provisions of the corporation's articles of incorporation as theretofore amended or supplemented, and that there is no discrepancy between those provisions and

the provisions of the restated articles. A restated articles of incorporation may omit: (1) Such provisions of the original articles of incorporation which named the incorporator or incorporators, the initial board of directors, and the original subscribers for shares; and (2) such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock if such change, exchange, reclassification, subdivision, combination or cancellation has become effective. Any such omissions shall not be deemed a further amendment.

(d) Any restated articles of incorporation shall be executed and filed in accordance with ~~K.S.A. 17-6003~~ *2015 Supp. 17-7908 through 17-7910, and amendments thereto, and upon such restated articles of incorporation becoming effective in accordance with K.S.A. 2015 Supp. 17-7911, and amendments thereto. ~~Upon filing with the secretary of state,~~ The corporation's original articles of incorporation, as theretofore amended or supplemented, shall be superseded; and ~~therefor~~ the restated articles of incorporation, including any further amendments or changes made thereby, shall be the articles of incorporation of the corporation, but the original date of incorporation shall remain unchanged.*

(e) Any amendment or change effected in connection with the restatement and integration of the articles of incorporation shall be subject to any other ~~provisions~~ *provision* of this ~~act~~ *code*, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change.

Sec. 69. K.S.A. 17-6701 is hereby amended to read as follows: 17-6701. (a) Any two or more corporations existing under the laws of this state ~~and authorized to issue capital stock~~ may merge into a single corporation, which may be any one of the constituent corporations or ~~they~~ may consolidate into a new corporation formed by the consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section.

(b) The board of directors of each corporation which desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation *and declaring its advisability*. The agreement shall state: (1) The terms and conditions of the merger or consolidation; (2) the mode of carrying the same into effect; (3) in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, *which amendments or changes may amend and restate the articles of incorporation of the surviving corporation in their entirety*, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation; (4) in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be ~~as is~~ *are* set forth in an attachment to the agreement; (5) the

manner, if any, of converting the shares of each of the constituent corporations into shares or other securities of the corporation surviving or resulting from the merger or consolidation, or of cancelling some or all of such shares and, if any shares of any of the constituent corporations are not to remain outstanding, to be converted solely into shares or other securities of the surviving or resulting corporation or to be cancelled, the cash, property, rights or securities of any other corporation or entity which the holders of such shares are to receive in exchange for, or upon conversion of, such shares and the surrender of any certificates evidencing them, which cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of shares or other securities of the surviving or resulting corporation; and (6) such other details or provisions as are deemed desirable, including, without limiting: the generality of the foregoing, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, interests or rights, or for any other arrangement with respect thereto, consistent with the provisions of K.S.A. 17-6405, and amendments thereto. The agreement ~~so adopted as provided in this subsection~~ shall be executed in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7908, and amendments thereto. Any terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term "facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) (1) The agreement required by subsection (b) shall be submitted to the stockholders of each constituent corporation at an annual or special meeting ~~thereof~~ for the purpose of acting on the agreement.

(2) ~~The terms of the agreement may require that the agreement be submitted to the stockholders whether or not the board of directors determines at any time subsequent to declaring its advisability that the agreement is no longer advisable and recommends that the stockholders reject it.~~

~~(3)~~ (3) Due notice of the time, place and purpose of the meeting shall be mailed to each holder of stock ~~of the corporation~~, whether voting or nonvoting, *of the corporation* at the stockholder's address as it appears on the records of the corporation, at least 20 days prior to the date of the meeting. The notice shall contain a copy of the agreement or a brief summary thereof, ~~as the directors deem advisable.~~

(4) (3) At the meeting the agreement shall be considered and a vote taken for its adoption or rejection. If a majority of the outstanding stock of the corporation entitled to vote thereon shall be voted for the adoption of the agreement, that fact shall be certified on the agreement by the secretary or assistant secretary of the corporation, *except that such cer-*

tification on the agreement shall not be required if a certificate of merger or consolidation is filed in lieu of filing the agreement. If the agreement is shall be so adopted and certified by each constituent corporation, it shall then be executed and filed, and shall become effective, in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7910 and 17-7911, and amendments thereto.

~~(5)~~ (4) In lieu of filing the agreement of merger or consolidation required by this section, the surviving or resulting corporation may file a certificate of merger or consolidation, executed in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7908, and amendments thereto, which states: (A) The name and state of incorporation of each of the constituent corporations; (B) that an agreement of merger or consolidation has been approved, adopted, certified and executed by each of the constituent corporations in accordance with this section; (C) the name of the surviving or resulting corporation; (D) in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, *which amendments or changes may amend and restate the articles of incorporation of the surviving corporation in their entirety*, or, if no such amendments or changes are desired, a statement that the articles of incorporation of ~~one of the constituent corporations~~ shall be the articles of incorporation of the surviving corporation; (E) in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be as ~~is~~ are set forth in an attachment to the certificate; (F) that the executed agreement of consolidation or merger is on file at the principal place of business of the surviving or resulting corporation, stating the address thereof; and (G) that a copy of the agreement of consolidation or merger will be furnished by the surviving or resulting corporation, on request and without cost, to any stockholder of any constituent corporation.

(d) Any agreement of merger or consolidation may contain a provision that at any time prior to the time that the agreement, or a certificate in lieu thereof, filed with the secretary of state becomes effective in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7911, and amendments thereto, the agreement may be terminated by the board of directors of any constituent corporation notwithstanding approval of the agreement by the stockholders of all or any of the constituent corporations; in the event the agreement of merger or consolidation is terminated after the filing of the agreement, or a certificate *in lieu thereof*, with the secretary of state but before the agreement, or a certificate *in lieu thereof*, has become effective, a certificate of termination of merger or consolidation shall be filed in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7910, and amendments thereto. Any agreement of merger or consolidation may contain a provision that the boards of directors of the constituent corporations may amend the agreement at any time prior to the ~~filing of time that the agreement, or a certificate in lieu thereof, with the secretary of state filed~~

with the secretary of state becomes effective in accordance with K.S.A. 2015 Supp. 17-7911, and amendments thereto, except that an amendment made subsequent to the adoption of the agreement by the stockholders of any constituent corporation shall not: (1) Alter or change the amount or kind of shares, securities, cash, property or rights, ~~or any combination~~, to be received in exchange for or on conversion of all or any of the shares of any class or series thereof of such constituent corporation; (2) alter or change any term of the articles of incorporation of the surviving or resulting corporation to be effected by the merger or consolidation; or (3) alter or change any of the terms and conditions of the agreement if such alteration or change would adversely affect the holders of any class or series thereof of such constituent corporation. In the event the agreement of merger or consolidation is amended after the filing ~~of such merger or consolidation~~ thereof with the secretary of state but before the agreement has become effective, a certificate of ~~amendments~~ *amendment* of merger or consolidation shall be filed in accordance with K.S.A. ~~17-6003~~ *2015 Supp 17-7910*, and amendments thereto.

(e) In the case of a merger, the articles of incorporation of the surviving corporation shall automatically be amended to the extent, if any, that changes in the articles of incorporation are set forth in the agreement of merger.

(f) (1) Notwithstanding the requirements of subsection (c), unless required by its articles of incorporation, no vote of stockholders of a constituent corporation surviving a merger shall be necessary to authorize a merger if: (A) The agreement of merger does not amend in any respect the articles of incorporation of such constituent corporation; (B) each share of stock of such constituent corporation outstanding immediately prior to the effective date of the merger is to be an identical outstanding or treasury share of the surviving corporation after the effective date of the merger; and (C) either no shares of common stock of the surviving corporation and no shares, securities or obligations convertible into such stock are to be issued or delivered under the plan of merger, or the authorized unissued shares or the treasury shares of common stock of the surviving corporation to be issued or delivered under the plan of merger plus those initially issuable upon conversion of any other shares, securities or obligations to be issued or delivered under such plan do not exceed 20% of the shares of common stock of such constituent corporation outstanding immediately prior to the effective date of the merger.

(2) No vote of stockholders of a constituent corporation shall be necessary to authorize a merger or consolidation if no shares of the stock of such corporation shall have been issued prior to the adoption by the board of directors of the resolution approving the agreement of merger or consolidation.

(3) If an agreement of merger is adopted by the constituent corporation surviving the merger, by action of its board of directors and without

any vote of its stockholders pursuant to this subsection, the secretary or assistant secretary of that corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and: (A) if it has been adopted pursuant to ~~the first sentence of this subsection (f)(1),~~ that the conditions specified in that ~~sentence subsection~~ have been satisfied; or (B) if it has been adopted pursuant to ~~the second sentence of this subsection (f)(2),~~ that no shares of stock of such corporation were issued prior to the adoption by the board of directors of the resolution approving the agreement of merger or consolidation.

~~(3)~~(4) The agreement so adopted and certified shall then be executed and filed, and shall become effective, in accordance with K.S.A. ~~17-6003~~ 2015 *Supp.* 17-7908 through 17-7911, and amendments thereto. Such filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately prior to such filing.

(g) Notwithstanding the requirements of subsection (c), unless expressly required by its articles of incorporation, no vote of stockholders of a constituent corporation shall be necessary to authorize a merger with or into a single direct or indirect wholly-owned subsidiary of such constituent corporation if:

(1) Such constituent corporation and the direct or indirect wholly-owned subsidiary of such constituent corporation are the only constituent entities to the merger;

(2) each share or fraction of a share of the capital stock of the constituent corporation outstanding immediately prior to the effective time of the merger is converted in the merger into a share or equal fraction of share of capital stock of a holding company having the same designations, rights, powers and preferences, and the qualifications, limitations and restrictions thereof, as the share of stock of the constituent corporation being converted in the merger;

(3) the holding company and the constituent ~~corporations~~ *corporation* are corporations of this state and the direct or indirect wholly-owned subsidiary that is the other constituent entity to the merger is a corporation or limited liability company of this state;

(4) the articles of incorporation and bylaws of the holding company immediately following the effective time of the merger contain provisions identical to the articles of incorporation and bylaws of the constituent corporation immediately prior to the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate name, the registered office and agent, the initial board of directors and the initial subscribers for shares and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination or cancellation has become effective;

(5) as a result of the merger the constituent corporation or its successor becomes or remains a direct or indirect wholly-owned subsidiary of the holding company;

(6) the directors of the constituent corporation become or remain the directors of the holding company upon the effective time of the merger;
~~and~~

(7) (A) the organizational documents of the surviving entity immediately following the effective time of the merger contain provisions identical to the articles of incorporation of the constituent corporation immediately prior to the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate or entity name, the registered office and agent, the initial board of directors and the initial subscribers for shares, references to members rather than stockholders or shareholders, references to interests, units or the like rather than stock or shares, references to managers, managing members or other members of the governing body rather than directors and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination or cancellation has become effective;

(B) if the organizational documents of the surviving entity do not contain the following provisions, such documents shall be amended in the merger to contain provisions requiring that: (i) Any act or transaction by or involving the surviving entity, other than the election or removal of directors or managers, managing members or other members of the governing body of the surviving entity, that requires for its adoption under this ~~act code~~ or its organizational documents the approval of the stockholders or members of the surviving entity shall, by specific reference to this subsection, require, in addition, the approval of the stockholders of the holding company, or any successor by merger, by the same vote as is required by this ~~act code~~ or by the organizational documents of the surviving entity, or both. For purposes of this clause, any surviving entity that is not a corporation shall include in such ~~amendments~~ *amendment* a requirement that the approval of the stockholders of the holding company be obtained for any act or transaction by or involving the surviving entity, other than the election or removal of directors or managers, managing members or other members of the governing body of the surviving entity, which would require the approval of the stockholders of the surviving entity if the surviving entity were a corporation subject to this ~~act code~~;

(ii) any amendment of the organizational documents of a surviving entity that is not a corporation, which amendment would, if adopted by a corporation subject to this ~~act code~~, be required to be included in the articles of incorporation of such corporation, shall, by specific reference to this subsection, require, in addition, the approval of the stockholders

of the holding company, or any successor by merger, by the same vote as is required by this ~~act~~ *code* or by the organizational documents of the surviving entity or both; and

(iii) the business and affairs of a surviving entity that is not a corporation shall be managed by or under the direction of a board of directors, board of managers or other governing body consisting of individuals who are subject to the same fiduciary duties applicable to, and who are liable for breach of such duties to the same extent as, directors of a corporation subject to this ~~act~~. ~~Neither the provisions of this subsection~~ *code*; and

(C) ~~the organizational documents of the surviving entity may be amended in the merger to:~~ (i) *Reduce the number of classes and shares of capital stock or other equity interests or units that the surviving entity is authorized to issue; and* (ii) *eliminate any provision authorized by K.S.A. 17-6301(d), and amendments thereto; and*

(8) *the stockholders of the constituent corporation do not recognize gain or loss for United States federal income tax purposes as determined by the board of directors of the constituent corporation. Neither subsection (g)(7)(B) nor any provision of a surviving entity's organizational documents required by this subsection (g)(7)(B) shall be deemed or construed to require approval of the stockholders of the holding company to elect or remove directors or managers, managing members or other members of the governing body of the surviving entity.*

~~(C) The organizational documents of the surviving entity may be amended in the merger to reduce the number of classes and shares of capital stock or other equity interests or units that the surviving entity is authorized to issue.~~

~~(D) As used in this subsection only,~~ The term “organizational documents,” *as used in subsection (g)(7) and (g)(8),* when used in reference to a corporation, means the articles of incorporation of such corporation and, when used in reference to a limited liability company, means the articles of organization or operating agreement of such limited liability company;

As used in this subsection, the term “holding company” means a corporation which, from its incorporation until consummation of a merger governed by this subsection, was at all times a direct or indirect wholly-owned subsidiary of the constituent corporation and whose capital stock is issued in such merger. From and after the effective time of a merger adopted by a constituent corporation by action of its board of directors and without any vote of stockholders pursuant to this subsection: ~~(†)~~ (I) To the extent the restriction of ~~K.S.A. 17-12,100 et seq.~~ *section 7,* and amendments thereto, applied to the constituent corporation and its stockholders *at* the effective time of the merger, such restrictions shall apply to the holding company and its stockholders immediately after the effective time of the merger as though it were the constituent corporation, and all shares of stock of the holding company acquired in the merger

shall for the purposes of ~~K.S.A. 17-12,100 et seq.~~ *section 7*, and amendments thereto, be deemed to have been acquired at the time that the shares of stock of the constituent corporation converted in the merger were acquired, and provided further that any stockholder who immediately prior to the effective time of the merger was not an interested stockholder within the meaning of ~~K.S.A. 17-12,100 et seq.~~ *section 7*, and amendments thereto, shall not solely by reason of the merger become an interested stockholder of the holding company; and (ii) (2) if the corporate name of the holding company immediately following the effective time of the merger is the same as the corporate name of the constituent corporation immediately prior to the effective time of the merger, the shares of capital stock of the holding company into which the shares of capital stock of the constituent corporation are converted in the merger shall be represented by the stock certificates that previously represented shares of capital stock of the constituent corporation; and (3) to the extent a stockholder of the constituent corporation immediately prior to the merger had standing to institute or maintain derivative litigation on behalf of the constituent corporation, nothing in this section shall be deemed to limit or extinguish such standing. If an agreement of merger is adopted by a constituent corporation by action of its board of directors and without any vote of stockholders pursuant to this subsection, the secretary or assistant secretary of the constituent corporation shall certify on the agreement ~~or a certificate of merger~~ that the agreement has been adopted pursuant to this subsection and that the conditions specified in the first sentence of this subsection have been satisfied. ~~The, except that such certification on the agreement or shall not be required if a certificate of merger or consolidation is filled in lieu of filing the agreement. The agreement so adopted and certified shall then be executed,~~ filed and become effective, in accordance with ~~K.S.A. 17-6003~~ 2015 Supp. 17-7908 through 17-7911, and amendments thereto. Such filing shall constitute a representation by the person who executes the agreement ~~or certificate of merger~~ that the facts stated in the certificate remain true immediately prior to such filing.

(h) (1) *Notwithstanding the requirements of subsection (c), unless expressly required by its articles of incorporation, no vote of stockholders of a constituent corporation whose shares are listed on a national securities exchange or held of record by more than 2,000 holders immediately prior to the execution of the agreement of merger by such constituent corporation shall be necessary to authorize a merger if:*

(A) *The agreement of merger expressly: (i) Permits or requires such merger to be effected under this subsection; and (ii) provides that such merger shall be effected as soon as practicable following the consummation of the offer referred to in subsection (i)(1)(B) if such merger is effected under this subsection;*

(B) *a corporation consummates a tender or exchange offer for any*

and all of the outstanding stock of such constituent corporation on the terms provided in such agreement of merger that, absent this subsection, would be entitled to vote on the adoption or rejection of the agreement of merger, except that such offer may exclude stock of such constituent corporation that is owned at the commencement of such offer by: (i) Such constituent corporation; (ii) the corporation making such offer; (iii) any person that owns, directly or indirectly, all of the outstanding stock of the corporation making such offer; or (iv) any direct or indirect wholly owned subsidiary of any of the foregoing;

(C) following the consummation of the offer referred to in subsection (i)(1)(B), the stock irrevocably accepted for purchase or exchange pursuant to such offer and received by the depository prior to expiration of such offer, plus the stock otherwise owned by the consummating corporation equals at least such percentage of the stock, and of each class or series thereof, of such constituent corporation that, absent this subsection, would be required to adopt the agreement of merger by this code and by the articles of incorporation of such constituent corporation;

(D) the corporation consummating the offer described in subsection (i)(1)(B) merges with or into such constituent corporation pursuant to such agreement; and

(E) each outstanding share of each class or series of stock of the constituent corporation that is the subject of and not irrevocably accepted for purchase or exchange in the offer referred to in subsection (i)(1)(B) is to be converted in such merger into, or into the right to receive, the same amount and kind of cash, property, rights or securities to be paid for shares of such class or series of stock of such constituent corporation irrevocably accepted for purchase or exchange in such offer.

(2) As used in this subsection, the term: (A) "Consummates," and with correlative meaning, "consummation" and "consummating," means irrevocably accepts for purchase or exchange stock tendered pursuant to a tender or exchange offer; (B) "depository" means an agent, including a depository, appointed to facilitate consummation of the offer referred to in subsection (i)(1)(B); (C) "person" means any individual, corporation, partnership, limited liability company, unincorporated association or other entity; and (D) "received," solely for purposes of subsection (i)(1)(C), means physical receipt of a stock certificate in the case of certificated shares and transfer into the depository's account, or an agent's message being received by the depository, in the case of uncertificated shares.

(3) If an agreement of merger is adopted without the vote of stockholders of a corporation pursuant to this subsection, the secretary or assistant secretary of the surviving corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and that the conditions specified in this subsection, other than the condition listed in subsection (i)(1)(D), have been satisfied, except that such

certification on the agreement shall not be required if a certificate of merger is filed in lieu of filing the agreement. The agreement so adopted and certified shall then be executed and filed and shall become effective, in accordance with K.S.A. 2015 Supp. 17-7908 through 17-7911, and amendments thereto. Such filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately prior to such filing.

Sec. 70. K.S.A. 17-6702 is hereby amended to read as follows: 17-6702. (a) Any one or more corporations of this state may merge or consolidate with one or more other ~~stock~~ corporations of any other state or states of the United States, or of the District of Columbia if the laws of such other jurisdiction permit a corporation of such jurisdiction to merge or consolidate with a corporation of another jurisdiction. The constituent corporations may merge into a single corporation, which may be any one of the constituent corporations, or they may consolidate into a new corporation formed by the consolidation, which may be a corporation of the state of incorporation of any one of the constituent corporations, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. In addition, any one or more corporations organized under the laws of any jurisdiction other than one of the United States may merge or consolidate with one or more corporations existing under the laws of this state, if the laws under which the other corporation or corporations are formed permit a corporation of such jurisdiction to merge or consolidate with a corporation of another jurisdiction.

(b) All the constituent corporations shall enter into an agreement of merger or consolidation. The agreement shall state: (1) The terms and conditions of the merger or consolidation; (2) the mode of carrying the same into effect; (3) the manner, if any, of converting the shares of each of the constituent corporations into shares or other securities of the corporation surviving or resulting from the merger or consolidation, or of cancelling some or all of such shares, and, if any shares of any of the constituent corporations are not to remain outstanding, to be converted solely into shares or other securities of the surviving or resulting corporation or to be cancelled, the cash, property, rights or securities of any other corporation or entity which the holders of such shares are to receive in exchange for, or upon conversion of, such shares and the surrender of any certificates evidencing them, which cash, property, rights or securities of any other corporation may be in addition to or in lieu of the shares or other securities of the surviving or resulting corporation; (4) such other details or provisions as are deemed desirable, including, without limiting the generality of the foregoing, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares of the surviving or resulting corporation or of any other corporation the securities of which are

to be received in the merger or consolidation, or for some other arrangement with respect thereto consistent with the provisions of K.S.A. 17-6405, and amendments thereto; and (5) such other provisions or facts as shall be required to be set forth in articles of incorporation by the laws of the state which are stated in the agreement to be the laws that shall govern the surviving or resulting corporation and that can be stated in the case of a merger or consolidation. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term "facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) The agreement shall be adopted, approved, certified and executed by each of the constituent corporations in accordance with the laws under which it is formed, and, in the case of a Kansas corporation, in the same manner as provided in K.S.A. 17-6701, and amendments thereto. The agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided in K.S.A. 17-6701, and amendments thereto, with respect to the merger or consolidation of corporations of this state. In lieu of filing the agreement of merger or consolidation, the surviving or resulting corporation may file a certificate of merger or consolidation, executed in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7908, and amendments thereto, which states: (1) The name and jurisdiction of incorporation of each of the constituents; (2) that an agreement of merger or consolidation has been approved, adopted, certified and executed by each of the constituent corporations in accordance with this section; (3) the name of the surviving or resulting corporation; (4) in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, *which amendments or changes may amend and restate the articles of incorporation of the surviving corporation in their entirety*, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation; (5) in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be ~~as is~~ set forth in an attachment to the certificate; (6) that the executed agreement of consolidation or merger is on file at the principal place of business of the surviving or resulting corporation and the address thereof; (7) that a copy of the agreement of consolidation or merger will be furnished by the surviving or resulting corporation, on request and without cost, to any stockholder of any constituent corporation; (8) if the corporation surviving or resulting from the merger or consolidation is to be a corporation of this state, the authorized capital stock of each constituent corporation which is not a

corporation of this state; and (9) the agreement, if any, required by subsection (d).

(d) If the corporation surviving or resulting from the merger or consolidation is to be governed by the laws of the District of Columbia or any state *or jurisdiction* other than this state, it shall agree that it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent corporation of this state, as well as for enforcement of any obligation of the surviving or resulting corporation arising from the merger or consolidation, including any suit or other proceeding to enforce the right of any ~~stockholder~~ *stockholders* as determined in appraisal proceedings pursuant to ~~the provisions of K.S.A. 17-6712, and amendments thereto.~~ *Such corporation, and shall irrevocably appoint the secretary of state as its agent to accept service of process in any such suit or other proceedings and shall specify the address to which a copy of such process shall be mailed by the secretary of state. Service of such process shall be made by personally delivering to and leaving with the secretary of state duplicate copies of such process. The secretary of state shall forthwith send by registered mail one of such copies. Process may be served upon the secretary of state under this subsection by means of electronic transmission but only as prescribed by the secretary of state. The secretary of state is authorized to issue such rules and regulations with respect to such service as the secretary of state deems necessary or appropriate. In the event of such service upon the secretary of state in accordance with this subsection, the secretary of state shall forthwith notify such surviving or resulting corporation thereof by letter, directed to such surviving or resulting corporation at its address so specified, unless such surviving or resulting corporation shall thereafter have designated in writing to the secretary of state a different address for such purpose, in which case it shall be mailed to the last address so designated. Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served on the secretary of state pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the secretary of state that service is being effected pursuant to this subsection and to pay the secretary of state the sum of \$40 for the use of the state, which sum and any administrative fees shall be taxed as part of the costs of the proceeding, if the plaintiff shall prevail therein. The secretary of state shall maintain a record of any such service in a manner deemed appropriate by the secretary. The secretary of state shall not be required to retain such information longer than five years from receipt of the service of process.*

(e) ~~The provisions of subsection (d) of K.S.A. 17-6701(d), and amendments thereto, shall apply to any merger or consolidation under this sec-~~

tion; ~~the provisions of subsection (e) of K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section in which the surviving corporation is a corporation of this state; the provisions of subsection (f) of and K.S.A. 17-6701(f) and (h), and amendments thereto, shall apply to any merger under this section.~~

Sec. 71. K.S.A. 17-6703 is hereby amended to read as follows: 17-6703. (a) In any case in which at least 90% of the outstanding shares of each class of the stock of a corporation or corporations, *other than a corporation which has in its articles of incorporation the provisions required by K.S.A. 17-6701(g)(7)(B), and amendments thereto, of which class there are outstanding shares that, absent this subsection, would be entitled to vote on such merger*, is owned by another corporation and one of ~~such the~~ corporations is a corporation of this state and the other or others are corporations of this state, or ~~of any other state or states, or of the District of Columbia and the laws of such the other state or states, or the District of Columbia permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction, the corporation having such stock ownership may either merge such the other corporation or corporations into itself and assume all of its or their obligations, or merge itself, or itself and one or more of such other corporations, into one of such other corporations by executing and filing, in accordance with K.S.A. 17-6003 2015 Supp. 17-7908 through 17-7910, and amendments thereto,~~ a certificate of such ownership and merger setting forth a copy of the resolution of its board of directors to so merge and the date of the adoption thereof, except that in case the parent corporation shall not own all the outstanding stock of all the subsidiary corporations, parties to a merger as provided in this section, the resolution of the board of directors of the parent corporation shall state the terms and conditions of the merger, including the securities, cash, property or rights to be issued, paid, delivered or granted by the surviving corporation upon surrender of each share of the subsidiary corporation or corporations not owned by the parent corporation, or the cancellation of some or all of such shares. Any of the terms of the resolution of the board of directors to so merge may be made dependent upon facts ascertainable outside of such resolution, provided that the manner in which such facts shall operate upon the terms of the resolution is clearly and expressly set forth in the resolution. The term "facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation. If the parent corporation ~~is~~ *be* not the surviving corporation, the resolution shall include provision for the pro rata issuance of stock of the surviving corporation to the holders of the stock of the parent corporation on surrender of any certificates therefor, and the certificate of ownership and merger shall state that the proposed merger has been approved by a majority of

the outstanding stock of the parent corporation entitled to vote thereon at a meeting thereof duly called and held after 20 days' notice of the purpose of the meeting mailed to each such stockholder at the stockholder's address as it appears on the records of the corporation, if the parent corporation is a corporation of this state, or the certificate shall state that the proposed merger has been adopted, approved, certified and executed by the parent corporation in accordance with the laws under which it is organized, if the parent corporation is not a corporation of this state. If the surviving corporation exists under the laws of the District of Columbia or any state or jurisdiction other than this state, ~~the provisions of subsection (d) of:~~

(1) K.S.A. 17-6702(d) or 17-6708(c), and amendments thereto, as applicable, shall also apply to a merger under this section; and

(2) *the terms and conditions of the merger shall obligate the surviving corporation to provide the agreement and take the actions required by K.S.A. 17-6702(d) or 17-6708(c), and amendments thereto, as applicable.*

(b) If the surviving corporation is a Kansas corporation, it may change its corporate name by the inclusion of a provision to that effect in the resolution of merger adopted by the directors of the parent corporation and set forth in the certificate of ownership and merger, and upon the effective date of the merger, the name of the corporation shall be changed.

(c) ~~The provisions of subsection (d) of K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section, and the provisions of subsection (e) of K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section in which the surviving corporation is the subsidiary corporation and is a corporation of this state. References to "agreement of merger" in subsections (d) and (e) of K.S.A. 17-6701(d) and (e), and amendments thereto, shall mean, for the purposes of this subsection (e), the resolution of merger adopted by the board of directors of the parent corporation. Any merger which effects any changes other than those authorized by this section or made applicable by this subsection shall be accomplished under the provisions of K.S.A. 17-6701 or, 17-6702, 17-6707 or 17-6708, and amendments thereto. The provisions of K.S.A. 17-6712, and amendments thereto, shall not apply to any merger effected under this section, except as provided in subsection (d).~~

(d) In the event all of the stock of a subsidiary Kansas corporation party to a merger effected under this section is not owned by the parent corporation immediately prior to the merger, the stockholders of the subsidiary Kansas corporation party to the merger shall have appraisal rights as set forth in K.S.A. 17-6712, and amendments thereto.

(e) A merger may be effected under this section although one or more of the corporations party parties to the merger is a corporation organized under the laws of a jurisdiction other than one of the United

States, if ~~(1)~~ the laws of such jurisdiction permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction; ~~and (2) the surviving corporation shall be a corporation of this state.~~

(f) This section shall apply to nonstock corporations if the parent corporation is such a corporation and is the surviving corporation of the merger, except that references to the directors of the parent corporation shall be deemed to be references to members of the governing body of the parent corporation, and references to the board of directors of the parent corporation shall be deemed to be references to the governing body of the parent corporation.

(g) Nothing in this section shall be deemed to authorize the merger of a corporation with a charitable nonstock corporation, if the charitable status of such charitable nonstock corporation would thereby be lost or impaired.

Sec. 72. K.S.A. 17-6705 is hereby amended to read as follows: 17-6705. (a) Any two or more nonstock corporations of this state, whether or not organized for profit, may merge into a single corporation, which may be any one of the constituent corporations, or they may consolidate into a new nonstock corporation, whether or not organized for profit, formed by the consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section.

(b) *Subject to subsection (d), the governing body of each corporation which desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation. The agreement shall state:*

(1) The terms and conditions of the merger or consolidation;

(2) the mode of carrying the same into effect;

(3) such other provisions or facts required or permitted by this ~~act~~ code to be stated in articles of incorporation for nonstock corporations as can be stated in the case of a merger or consolidation, stated in such altered form as the circumstances of the case require;

(4) the manner, if any, of converting the memberships or membership interests of each of the constituent corporations into memberships or membership interests of the corporation surviving or resulting from the merger or consolidation, or of cancelling some or all of such memberships or membership interests; and

(5) such other details or provisions as are deemed desirable. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term "facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) *Subject to subsection (d), the agreement shall be submitted to the members of each constituent corporation who have the right to vote for the election of the members of the governing body of their corporation; at an annual or special meeting thereof for the purpose of acting on the agreement. Due notice of the time, place and purpose of the meeting shall be mailed to each member of each such corporation who has the right to vote for the election of the members of the governing body of the corporation and to each other member who is entitled to vote on the merger under the articles of incorporation or the bylaws of such corporation, at the member's address as it appears on the records of the corporation, at least 20 days prior to the date of the meeting. The notice shall contain a copy of the agreement or a brief summary thereof, as the governing body shall deem advisable. At the meeting the agreement shall be considered and a vote by ballot, in person or by proxy, taken for the adoption or rejection of the agreement; each member who has the right to vote for the election of the members of the governing body of such member's corporation being entitled to one vote. The following vote shall be required for the adoption of the agreement: (1) If a majority of the voting power of members of each such corporation who have the voting power above mentioned shall be for the adoption of the agreement entitled to vote for the election of the members of the governing body of the corporation and any other members entitled to vote on the merger under the articles of incorporation or the bylaws of the corporation, except those corporations that are the subject of paragraph (2); or, (2) in the case of a nonstock, nonprofit corporation, other than a nonprofit dental service corporation organized and operated under the nonprofit dental service corporation act, cited at K.S.A. 40-19a01 et seq., and amendments thereto, if a majority of the total number of members voting at an annual or special meeting for the purpose of acting on the agreement vote for the adoption of the agreement, then of each corporation entitled to vote for the election of the members of the governing body of the corporation and any other members entitled to vote on the merger under the articles of incorporation or the bylaws of the corporation voting at the meeting. If the agreement is so adopted, that fact shall be certified on the agreement by the officer of each such corporation performing the duties ordinarily performed by the secretary or assistant secretary of a corporation. The agreement, except that such certification on the agreement shall not be required if a certificate of merger or consolidation is filed in lieu of filing the agreement. If the agreement shall be so adopted and certified by each constituent corporation in accordance with this section, it shall be executed and filed, and shall become effective, in accordance with K.S.A. 17-6003 2015 Supp. 17-7908 through 17-7911, and amendments thereto. The provisions set forth in the last sentence of subsection (c) of K.S.A. 17-6701(c), and amendments thereto, shall apply to a merger un-*

der this section, and the reference *therein* to “stockholder” shall be deemed to include “member” hereunder.

(d) ~~Notwithstanding subsection (b) or (c), if, under the provisions of the articles of incorporation or the bylaws of any one or more of the constituent corporations, there shall be no members who have the right to vote for the election of the members of the governing body of the corporation, or for the merger, other than the members of that body themselves, the agreement duly entered into as provided in subsection (b) shall be submitted to the members of the governing body of such corporation or corporations, at a meeting of such corporation or corporations. Notice of the meeting shall be mailed to the members of the governing body in the same manner as is provided in the case of a meeting of the members of a corporation. If at the meeting $\frac{2}{3}$ of the total number of members of the governing body shall vote by ballot, in person, for the adoption of the agreement, the governing body themselves, no further action by the governing body or the members of such corporation shall be necessary if the resolution approving an agreement of merger or consolidation has been adopted by a majority of all the members of the governing body thereof, and that fact shall be certified on the agreement in the same manner as is provided in the case of the adoption of the agreement by the vote of the members of a corporation; except that such certification on the agreement shall not be required if a certificate of merger or consolidation is filed in lieu of filing the agreement, and thereafter the same procedure shall be followed to consummate the merger or consolidation.~~

(e) ~~The provisions of subsection (e) of K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section, except that references to the board of directors, to stockholders, and to shares of a constituent corporation shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests, as applicable, respectively.~~

(f) ~~K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section.~~

(g) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a nonstock corporation if such charitable nonstock corporation would thereby have its charitable status lost or impaired, but a nonstock corporation may be merged into a charitable nonstock corporation which shall continue as the surviving corporation.

Sec. 73. K.S.A. 17-6706 is hereby amended to read as follows: 17-6706. (a) Any one or more nonstock corporations of this state may merge or consolidate with one or more other nonstock corporations of any other state or states of the United States or of the District of Columbia; if the laws of such other ~~jurisdiction~~ state or states or of the District of Columbia

permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction. The constituent corporations may merge into a single corporation, which may be any one of the constituent corporations, or they may consolidate into a new nonstock corporation formed by the consolidation, which may be a corporation of the state of incorporation of any one of the constituent corporations, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. In addition, any one or more nonstock corporations organized under the laws of any jurisdiction other than one of the United States may merge or consolidate with one or more nonstock corporations of this state if the surviving or resulting corporation will be a corporation of this state, and if the laws under which the other corporation or corporations are formed permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction.

(b) All the constituent corporations shall enter into an agreement of merger or consolidation. The agreement shall state:

- (1) The terms and conditions of the merger or consolidation;
- (2) the mode of carrying the same into effect;
- (3) the manner, if any, of converting the memberships or *membership interests* of each of the constituent corporations into memberships or *membership interests* of the corporation surviving or resulting from such merger or consolidation, or of cancelling some or all of such memberships or *membership interests*;
- (4) such other details and provisions as shall be deemed desirable; and

(5) such other provisions or facts as shall then be required to be stated in articles of incorporation by the laws of the state which are stated in the agreement to be the laws that shall govern the surviving or resulting corporation and that can be stated in the case of a merger or consolidation. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, if the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term "facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) The agreement shall be adopted, approved, *certified* and executed by each of the constituent corporations in accordance with the laws under which it is formed and, in the case of a Kansas corporation, in the same manner as is provided in K.S.A. 17-6705, and amendments thereto. The agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided in K.S.A. 17-6705, and amendments thereto, with respect to the merger of nonstock corporations of this state. Insofar as they may be applicable, the provisions set forth in the last sentence of ~~subsection (c)~~ of K.S.A. 17-6702(c), and amendments

thereto, shall apply to a merger under this section, and the reference *therein* to “stockholder” shall be deemed to include “member” hereunder.

(d) If the corporation surviving or resulting from the merger or consolidation is to be governed by the laws of any state other than this state, it shall agree that it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent corporation of this state, as well as for enforcement of any obligation of the surviving or resulting corporation arising from the merger or consolidation; and shall irrevocably appoint the secretary of state as its agent to accept service of process in any ~~such~~ suit or other proceedings and shall specify the address to which a copy of such process shall be mailed by the secretary of state. ~~Service of such process shall be made by personally delivering to and leaving with the secretary of state duplicate copies of such process. The secretary of state shall forthwith send by registered mail one of such copies to~~ *Process may be served upon the secretary of state under this subsection by means of electronic transmission but only as prescribed by the secretary of state. The secretary of state is authorized to issue such rules and regulations with respect to such service as the secretary of state deems necessary or appropriate. In the event of such service upon the secretary of state in accordance with this subsection, the secretary of state shall forthwith notify such surviving or resulting corporation thereof by letter, directed to such corporation at its address so specified, unless such surviving or resulting corporation shall thereafter have designated in writing to the secretary of state a different address for such purpose, in which case it shall be mailed to the last address so designated. Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served upon the secretary of state. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the secretary of state that service is being made pursuant to this subsection, and to pay the secretary of state the sum of \$40 for the use of the state, which sum and any administrative fees shall be taxed as a part of the costs in the proceeding if the plaintiff shall prevail therein. The secretary of state shall maintain a record of any such service in a manner deemed appropriate by the secretary. The secretary of state shall not be required to retain such information for a period longer than five years from receipt of the service of process.*

(e) ~~The provisions of subsection (c) of K.S.A. 17-6701(c), and amendments thereto,~~ shall apply to a merger under this section, if the corporation surviving the merger is a corporation of this state.

(f) *K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section, except that references to the board of directors, to stockholders, and to shares of a constituent corporation shall be deemed*

to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests, as applicable, respectively.

(g) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a nonstock corporation, if the charitable status of such charitable nonstock corporation would thereby be lost or impaired, but a nonstock corporation may be merged into a charitable nonstock corporation which shall continue as the surviving corporation.

Sec. 74. K.S.A. 17-6707 is hereby amended to read as follows: 17-6707. (a) Any one or more nonstock corporations of this state, whether or not organized for profit, may merge or consolidate with one or more stock corporations of this state, whether or not organized for profit. The constituent corporations may merge into a single corporation, which may be any one of the constituent corporations, or they may consolidate into a new corporation formed by the consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. The surviving constituent corporation or the new corporation may be organized for profit or not organized for profit and may be a stock corporation or a nonstock corporation.

(b) The board of directors of each stock corporation which desires to merge or consolidate and the governing body of each nonstock corporation which desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation. The agreement shall state:

- (1) The terms and conditions of the merger or consolidation;
- (2) the mode of carrying the same into effect;
- (3) such other provisions or facts required or permitted by this ~~act~~ *code* to be stated in articles of incorporation as can be stated in the case of a merger or consolidation, stated in such altered form as the circumstances of the case require;

- (4) the manner, if any, of converting the shares of stock of a stock corporation and the *memberships or membership interests of the members* of a nonstock corporation into shares or other securities of a stock corporation *or memberships or memberships* or membership interests of a nonstock corporation surviving or resulting from such merger or consolidation; or of cancelling some or all of such shares or *memberships or membership interests*, and, if any shares of any such stock corporation *or memberships* or membership interests of any such nonstock corporation are not to remain outstanding, to be converted solely into shares or other securities of the stock corporation *or memberships* or membership interests of the nonstock corporation surviving or resulting from such merger or consolidation or to be cancelled, the cash, property, rights or securities of any other corporation or entity which the holders of shares of any such stock

corporation or *memberships* or membership interests of any such nonstock corporation are to receive in exchange for, or upon conversion of such shares or *memberships* or membership interests, and the surrender of any certificates evidencing them, which cash, property, rights; or securities of any other corporation or entity may be in addition to or in lieu of shares or other securities of any stock corporation or *memberships* or membership interests of any nonstock corporation surviving or resulting from such merger or consolidation; and

(5) such other details or provisions as are deemed desirable.

In such merger or consolidation, the *memberships or membership* interests of ~~members of~~ a constituent nonstock corporation may be treated in various ways so as to convert such *memberships or membership* interests into interests of value, other than shares of stock, in the surviving or resulting stock corporation or into shares of stock in the surviving or resulting stock corporation, voting or nonvoting, or into creditor interests or any other interests of value equivalent to their *memberships or membership* interests in their nonstock corporation. The voting rights of members of a constituent nonstock corporation need not be considered an element of value in measuring the reasonable equivalence of the value of the interests received in the surviving or resulting stock corporation by members of a constituent nonstock corporation, nor need the voting rights of shares of stock in a constituent stock corporation be considered as an element of value in measuring the reasonable equivalence of the value of the interests in the surviving or resulting nonstock corporation received by stockholders of a constituent stock corporation, and the voting or nonvoting shares of a stock corporation may be converted into ~~voting or nonvoting regular, life, general, special or other~~ *any* type of membership or *membership interest*, however designated, creditor interests or participating interests, in ~~any~~ *the* nonstock corporation surviving or resulting from such merger or consolidation of a stock corporation and a nonstock corporation. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term "facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) The agreement required by subsection (b), in the case of each constituent stock corporation, shall be adopted, approved, *certified* and executed by each constituent corporation in the same manner as is provided in K.S.A. 17-6701, and amendments thereto, and, in the case of each constituent nonstock corporation, shall be adopted, approved, *certified* and executed by each of such constituent corporations in the same manner as is provided in K.S.A. 17-6705, and amendments thereto. The

agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided in K.S.A. 17-6701, and amendments thereto, with respect to the merger of stock corporations of this state. Insofar as they may be applicable, the provisions set forth in the last sentence of ~~subsection (e) of~~ K.S.A. 17-6701(c), and amendments thereto, shall apply to a merger under this section, and the reference *therein* to “stockholder” shall be deemed to include “member” hereunder.

(d) ~~The provisions of subsection (e) of K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section, if the surviving corporation is a corporation of this state, the provisions of subsection (d) of K.S.A. 17-6701, and amendments thereto, shall apply to any constituent stock corporation participating in a merger or consolidation under this section, and the provisions of subsection (f) of, and K.S.A. 17-6701(f), and amendments thereto, shall apply to any constituent stock corporation participating in a merger under this section.~~

(e) *K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section, except that, for purposes of a constituent nonstock corporation, references to the board of directors, to stockholders, and to shares of a constituent corporation shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests, as applicable, respectively.*

(f) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a stock corporation, if the charitable status of such nonstock corporation would thereby be lost or impaired, *but a stock corporation may be merged into a charitable nonstock corporation which shall continue as the surviving corporation.*

Sec. 75. K.S.A. 17-6708 is hereby amended to read as follows: 17-6708. (a) Any one or more corporations of this state, whether stock or nonstock corporations and whether or not organized for profit, may merge or consolidate with one or more other corporations of any other state or states of the United States or of the District of Columbia, whether stock or nonstock corporations and whether or not organized for profit, if the laws under which the other corporation or corporations are formed shall permit *such* a corporation of such jurisdiction to merge with a corporation of another jurisdiction. The constituent corporations may merge into a single corporation, which may be any one of the constituent corporations, or they may consolidate into a new corporation formed by the consolidation, which may be a corporation of the place of incorporation of any one of the constituent corporations, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. The surviving or new corporation may be either a stock corporation or a ~~membership~~ nonstock corporation, as shall be spec-

ified in the agreement of merger required by subsection (b) ~~of this section.~~

(b) The method and procedure to be followed by the constituent corporations so merging or consolidating shall be as prescribed in K.S.A. 17-6707, *and amendments thereto*, in the case of Kansas corporations. The agreement of merger or consolidation shall also set forth such other matters or provisions as shall then be required to be set forth in articles of incorporation by the laws of the state which are stated in the agreement to be the laws which shall govern the surviving or resulting corporation and that can be stated in the case of a merger or consolidation. The agreement, in the case of foreign corporations, shall be adopted, approved, *certified* and executed by each of the constituent foreign corporations in accordance with the laws under which each is formed.

(c) ~~The requirements of subsection (d) of K.S.A. 17-6702(d), and amendments thereto, as to the appointment of the secretary of state to receive process and the manner of serving the same in the event the surviving or new corporation is to be governed by the laws of any other state shall also apply to mergers or consolidations effected under the provisions of this section. The provisions of subsection (e) of K.S.A. 17-6701(e), and amendments thereto, shall apply to mergers effected under the provisions of this section if the surviving corporation is a corporation of this state; the provisions of subsection (d) of K.S.A. 17-6701(d), and amendments thereto, shall apply to any constituent stock corporation participating in a merger or consolidation under this section, except that for purposes of a constituent nonstock corporation, references to the board of directors, to stockholders, and to shares shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests of the corporation, as applicable, respectively; and the provisions of subsection (f) of K.S.A. 17-6701(f), and amendments thereto, shall apply to any constituent stock corporation participating in a merger under this section.~~

(d) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a stock corporation, if the charitable status of such nonstock corporation would thereby be lost or impaired; but a stock corporation may be merged into a charitable nonstock corporation which shall continue as the surviving corporation.

Sec. 76. K.S.A. 17-6710 is hereby amended to read as follows: 17-6710. When two or more corporations are merged or consolidated, the corporation surviving or resulting from the merger or consolidation may issue bonds or other obligations, negotiable or otherwise, and with or without coupons or interest certificates thereto attached, to an amount sufficient with its capital stock to provide for all the payments it will be required to make, or obligations it will be required to assume, in order to effect the merger or consolidation. For the purpose of securing the

payment of any such bonds and obligations, it shall be lawful for the surviving or resulting corporation to mortgage its corporate franchise, rights, privileges and property, real, personal or mixed. The surviving or resulting corporation may issue ~~certificated or uncertificated shares~~ *certificates of its capital stock or uncertificated stock if authorized to do so* and other securities to the stockholders of the constituent corporations in exchange or payment for the original shares, in such amount as shall be necessary in accordance with the terms of the agreement of merger or consolidation in order to effect such merger or consolidation in the manner and on the terms specified in the agreement.

Sec. 77. K.S.A. 17-6712 is hereby amended to read as follows: 17-6712. (a) ~~When~~ *Any stockholder of a corporation of this state who holds shares of stock on the date of the making of a demand pursuant to subsection (d) with respect to such shares, who continuously holds such shares through the effective date of the merger or consolidation, who has otherwise complied with subsection (d) and who has neither voted in favor of the merger or consolidation nor consented thereto in writing pursuant to K.S.A. 17-6518, and amendments thereto, shall be entitled to an appraisal by the district court of the fair value of the stockholder's shares of stock under the circumstances described in subsections (b) and (c). As used in this section, the word "stockholder" means a holder of record of stock in a stock corporation and also a member of record of a nonstock corporation; the words "stock" and "share" mean and include what is ordinarily meant by those words and also membership or membership interest of a member of a nonstock corporation; and the words "depository receipt" mean a receipt or other instrument issued by a depository representing an interest in one or more shares, or fractions thereof, solely of stock of a corporation, which stock is deposited with the depository.*

(b) ~~(1)~~ Appraisal rights shall be available for the shares of any class or series of stock of a constituent corporation in a merger or consolidation to be effected pursuant to K.S.A. 17-6701, and amendments thereto, other than a merger effected pursuant to ~~subsection (g) of~~ K.S.A. 17-6701(g), and amendments thereto, ~~and, subject to subsection (b)(3), K.S.A. 17-7601(h), 17-6702, 17-6704, 17-6705, 17-6706, 17-6707; and 17-6708 or 17-7703, and amendments thereto, except that:~~

~~(A)~~ (1) No appraisal rights under this section shall be available for the shares of any class or series of stock, which stock, or depository receipts in respect thereof, at the record date fixed to determine the stockholders entitled to receive notice of ~~and to vote at~~ the meeting of stockholders to act upon the agreement of merger or consolidation, were either: (A) Listed on a national securities exchange or designated as a national market system security on an interdealer quotation system by the national association of securities dealers, inc.;, or (B) held of record by more than 2,000 holders; ~~(B), except that no appraisal rights shall be~~

available for any shares of stock of the constituent corporation surviving a merger if the merger did not require for its approval the vote of the stockholders of the surviving corporation as provided in subsection (f) of K.S.A. 17-6701(f), and amendments thereto.

(2) ~~Notwithstanding the provisions of subsections (b)(1)(A) and (b)(1)(B) subsection (b)(1),~~ appraisal rights under this section shall be available for the shares of any class or series of stock of a constituent corporation if the holders thereof are required by the terms of an agreement of merger or consolidation pursuant to K.S.A. 17-6701, 17-6702, ~~17-6704~~ 17-6705, 17-6706, 17-6707; ~~and 17-6708 and 17-7703,~~ and amendments thereto, to accept for such stock anything except:

(A) Shares of stock of the corporation surviving or resulting from such merger or consolidation, or depository receipts in respect of such shares of stock thereof;

(B) shares of stock of any other corporation, or depository receipts in respect of such shares of stock thereof, which shares of stock, or depository receipts in respect of such shares of stock thereof, or depository receipts at the effective date of the merger or consolidation will be either listed on a national securities exchange or designated as a national market system security on an interdealer quotation system by the national association of securities dealers, inc. or held of record by more than 2,000 holders;

(C) cash in lieu of fractional shares or fractional depository receipts described in the foregoing subparagraphs (A) and (B); or

(D) any combination of the shares of stock, depository receipts and cash in lieu of fractional shares or fractional depository receipts described in the foregoing subparagraphs (A), (B) and (C).

(3) In the event all of the stock of a subsidiary Kansas corporation party to a merger effected under K.S.A. 17-6701(h) or 17-6703, and amendments thereto, is not owned by the parent corporation immediately prior to the merger, appraisal rights shall be available for the shares of the subsidiary Kansas corporation.

(c) Any corporation may provide in its articles of incorporation that appraisal rights under this section shall be available for the shares of any class or series of its stock as a result of an amendment to its articles of incorporation, any merger or consolidation in which the corporation is a constituent corporation or the sale of all or substantially all of the assets of the corporation. If the articles of incorporation ~~contains~~ contain such a provision, the procedures of this section, including those set forth in subsections (d) and (e), shall apply as nearly as is practicable.

(d) Appraisal rights shall be perfected as follows:

(1) If a proposed merger or consolidation for which appraisal rights are provided under this section is to be submitted for approval at a meeting of stockholders, the corporation, not less than 20 days prior to the meeting, shall notify each of its stockholders who was such on the record

date for notice of such meeting, or such members who received notice in accordance with K.S.A. 17-6705, and amendments thereto, with respect to shares for which appraisal rights are available pursuant to subsection (b) or (c) that appraisal rights are available for any or all of the shares of the constituent corporations, and shall include in such notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of section 4, and amendments thereto. Each stockholder electing to demand the appraisal of such stockholder's shares shall deliver to the corporation, before the taking of the vote on the merger or consolidation, a written demand for appraisal of such stockholder's shares. Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such stockholder's shares. A proxy or vote against the merger or consolidation shall not constitute such a demand. A stockholder electing to take such action must do so by a separate written demand as herein provided. Within 10 days after the effective date of such merger or consolidation, the surviving or resulting corporation shall notify each stockholder of each constituent corporation who has complied with this subsection and has not voted in favor of or consented to the merger or consolidation of the date that the merger or consolidation has become effective; or

(2) If the merger or consolidation was approved pursuant to K.S.A. 17-6518, 17-6701(h) or ~~K.S.A. 17-6703~~, and amendments thereto, then, either a constituent corporation before the effective date of the merger or consolidation; or the surviving or resulting corporation within 10 days thereafter; shall notify each of the holders of any class or series of stock of such constituent corporation who are entitled to appraisal rights of the approval of the merger or consolidation and that appraisal rights are available for any or all shares of such class or series of stock of such constituent corporation, and shall include in such notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of section 4, and amendments thereto. Such notice may, and, if given on or after the effective date of the merger or consolidation, shall, also notify such stockholders of the effective date of the merger or consolidation. Any stockholder entitled to appraisal rights may, within 20 days after the date of mailing of such notice or, in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, within the later of the consummation of the tender or exchange offer contemplated by K.S.A. 17-6701(h), and amendments thereto, and 20 days after the date of mailing of such notice, demand in writing from the surviving or resulting corporation the appraisal of such holder's shares. Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such holder's shares. If such notice did not notify stockholders of the effective date of the merger or consolidation, either: (A) Each such

constituent corporation shall send a second notice before the effective date of the merger or consolidation notifying each of the holders of any class or series of stock of such constituent corporation that are entitled to appraisal rights of the effective date of the merger or consolidation; or (B) the surviving or resulting corporation shall send such a second notice to all such holders on or within 10 days after such effective date; provided, however, that if such second notice is sent more than 20 days following the sending of the first notice *or, in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, later than the later of the consummation of the tender or exchange offer contemplated by K.S.A. 17-6701(h), and amendments thereto, and 20 days following the sending of the first notice*, such second notice need only be sent to each stockholder who is entitled to appraisal rights and who has demanded appraisal of such holder's shares in accordance with this subsection. An affidavit of the secretary or assistant secretary or of the transfer agent of the corporation that is required to give either notice that such notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein. For purposes of determining the stockholders entitled to receive either notice, each constituent corporation may fix, in advance, a record date that shall be not more than 10 days prior to the date the notice is given, provided, that if the notice is given on or after the effective date of the merger or consolidation, the record date shall be such effective date. If no record date is fixed and the notice is given prior to the effective date, the record date shall be the close of business on the day next preceding the day on which the notice is given.

(e) Within 120 days after the effective date of the merger or consolidation, the surviving or resulting corporation or any stockholder who has complied with subsections (a) and (d) and who is otherwise entitled to appraisal rights, may ~~file~~ *commence an appraisal proceeding by filing* a petition in the district court demanding a determination of the value of the stock of all such stockholders. Notwithstanding the foregoing, at any time within 60 days after the effective date of the merger or consolidation, any stockholder *who has not commenced an appraisal proceeding or joined that proceeding as a named party* shall have the right to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation. Within 120 days after the effective date of the merger or consolidation, any stockholder who has complied with the requirements of ~~subsection~~ *subsections* (a) and (d), upon written request, shall be entitled to receive from the corporation surviving the merger or resulting from the consolidation a statement setting forth the aggregate number of shares not voted in favor of the merger or consolidation and with respect to which demands for appraisal have been received and the aggregate number of holders of such shares. Such written statement shall be mailed to the stockholder within 10 days after such stockholder's written request for such a statement is received by the sur-

living or resulting corporation or within 10 days after expiration of the period for delivery of demands for appraisal under subsection (d), whichever is later. *Notwithstanding subsection (a), a person who is the beneficial owner of shares of such stock held either in a voting trust or by a nominee on behalf of such person may, in such person's own name, file a petition or request from the corporation the statement described in this subsection.*

(f) Upon the filing of any such petition by a stockholder, service of a copy thereof shall be made upon the surviving or resulting corporation, which shall within 20 days after such service file in the office of the clerk of the court in which the petition was filed a duly verified list containing the names and addresses of all stockholders who have demanded payment for their shares and with whom agreements as to the value of their shares have not been reached by the surviving or resulting corporation, the petition shall be filed by the surviving or resulting corporation, the petition shall be accompanied by such a duly verified list. The clerk of the court, if so ordered by the court, shall give notice of the time and place fixed for the hearing of such petition by registered or certified mail to the surviving or resulting corporation and to the stockholders shown on the list at the addresses therein stated. Such notice shall also be given by one or more publications at least one week before the day of the hearing, in a newspaper of general circulation published in the county in which the court is located or such publication as the court deems advisable. The forms of the notices by mail and by publication shall be approved by the court, and the costs thereof shall be borne by the surviving or resulting corporation.

(g) At the hearing on such petition, the court shall determine the stockholders who have complied with this section and who have become entitled to appraisal rights. The court may require the stockholders who have demanded an appraisal for their shares and who hold stock represented by certificates to submit their certificates of stock to the clerk of the court for notation thereon of the pendency of the appraisal proceedings; and if any stockholder fails to comply with such direction, the court may dismiss the proceedings as to such stockholder.

(h) ~~After determining the court determines the stockholders entitled to an appraisal, the court shall appraise the shares, determining their fair value appraisal proceeding shall be conducted in accordance with the rules of the district court, including any rules specifically governing appraisal proceedings. Through such proceeding the court shall determine the fair value of the shares exclusive of any element of value arising from the accomplishment or expectation of the merger or consolidation, together with a fair rate of interest, if any, to be paid upon the amount determined to be the fair value. In determining such fair value, the court shall take into account all relevant factors. In determining the fair rate of interest, the court may consider all relevant factors, including the rate of~~

~~interest which the surviving or resulting corporation would have had to pay to borrow money during the pendency of the proceeding~~ *Unless the court in its discretion determines otherwise for good cause shown, interest from the effective date of the merger through the date of payment of the judgment shall be compounded quarterly and shall accrue at 5% over the federal reserve discount rate, including any surcharge, as established from time to time during the period between the effective date of the merger and the date of payment of the judgment.* Upon application by the surviving or resulting corporation or by any stockholder entitled to participate in the appraisal proceeding, the court may, in its discretion, ~~permit discovery or other pretrial proceedings and may proceed to trial upon the appraisal prior to the final determination of the stockholder~~ *stockholders* entitled to an appraisal. Any stockholder whose name appears on the list filed by the surviving or resulting corporation pursuant to subsection (f) and who has submitted such stockholder's certificates of stock to the clerk of the court, if such is required, may participate fully in all proceedings until it is finally determined that such stockholder is not entitled to appraisal rights under this section.

(i) The court shall direct the payment of the fair value of the shares, together with interest, if any, by the surviving or resulting corporation to the stockholders entitled thereto. ~~Interest may be simple or compound, as the court may direct.~~ Payment shall be so made to each such stockholder, in the case of holders of uncertificated stock forthwith, and the case of holders of shares represented by certificates upon the surrender to the corporation of the certificates representing such stock. The court's decree may be enforced as other decrees in the district court may be enforced, whether such surviving or resulting corporation be a corporation of this state or of any state.

(j) The costs of the proceeding may be determined by the court and taxed upon the parties as the court deems equitable in the circumstances. Upon application of a stockholder, the court may order all or a portion of the expenses incurred by any stockholder in connection with the appraisal proceeding, including, without limitation, reasonable ~~attorney's~~ *attorney* fees and the fees and expenses of experts, to be charged pro rata against the value of all the shares entitled to an appraisal.

(k) From and after the effective date of the merger or consolidation, no stockholder who has demanded appraisal rights as provided in subsection (d) shall be entitled to vote such stock for any purpose or to receive payment of dividends or other distributions on the stock, except dividends or other distributions payable to stockholders of record at a date which is prior to the effective date of the merger or consolidation; provided, however, that if no petition for an appraisal shall be filed within the time provided in subsection (e), or if such stockholder shall deliver to the surviving or resulting corporation a written withdrawal of such stockholder's demand for an appraisal and an acceptance of the merger

or consolidation, either within 60 days after the effective date of the merger or consolidation as provided in subsection (e) or thereafter with the written approval of the corporation, then the right of such stockholder to an appraisal shall cease. Notwithstanding the foregoing, no appraisal proceeding in the district court shall be dismissed as to any stockholder without the approval of the court, and such approval may be conditioned upon such terms as the court deems just, *except that this provision shall not affect the right of any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation within 60 days after the effective date of the merger or consolidation, as set forth in subsection (e).*

(l) The shares of the surviving or resulting corporation to which the shares of such objecting stockholders would have been converted had they assented to the merger or consolidation shall have the status of authorized and unissued shares of the surviving or resulting corporation.

Sec. 78. K.S.A. 17-6801 is hereby amended to read as follows: 17-6801. (a) Every corporation *may* at any meeting of its board of directors ~~may~~ or governing body sell, lease or exchange all or substantially all of its property and assets, including its ~~good will~~ goodwill and its corporate franchises, upon such terms and conditions and for such consideration, which may consist in whole or in part of money or other property, including shares of stock in, ~~or and~~ other securities of, ~~or both,~~ any other corporation or corporations, as its board of directors or governing body deems expedient and for the best interests of the corporation, when and as authorized by a resolution adopted *at a meeting duly called upon at least 20 days' notice as follows:* (1) *By the holders of a majority of the outstanding stock of the corporation entitled to vote thereon* ~~or;~~ (2) *in the case of non-stock nonstock corporations, other than those corporations that are the subject of the next paragraph, by a majority of the members* ~~thereof~~ *entitled to vote for the election of the members of the governing body and any other members* entitled to vote thereon, ~~at a meeting thereof duly called upon at least 20 days' notice under the articles of incorporation or the bylaws of such corporation;~~ or (3) *in the case of nonprofit nonstock corporations, other than a nonprofit dental service corporation organized and operated under the nonprofit dental service corporation act, K.S.A. 40-19a01 et seq., and amendments thereto, by a majority of the members entitled to vote for the election of the members of the governing body of the corporation and any other members entitled to vote thereon under the articles of incorporation or the bylaws of such corporation voting at such meeting.* The notice of the meeting shall state that such a resolution will be considered.

(b) Notwithstanding authorization or consent to a proposed sale, lease or exchange of a corporation's property and assets ~~pursuant to sub-~~

~~section (a)~~ *by the stockholders or members, the board of directors or governing body may abandon such proposed sale, lease or exchange without further action by the stockholders or members, as the case may be, subject to the rights, if any, of third parties under any contract relating thereto.*

(c) For purposes of this section only, the property and assets of the corporation include the property and assets of any subsidiary of the corporation. As used in this subsection, "subsidiary" means any entity wholly owned and controlled, directly or indirectly, by the corporation and includes, without limitation, corporations, partnerships, limited partnerships, limited liability partnerships, limited liability companies and statutory trusts. Notwithstanding subsection (a), except to the extent the articles of incorporation otherwise provide, no resolution by stockholders or members shall be required for a sale, lease or exchange of property and assets of the corporation to a subsidiary.

Sec. 79. K.S.A. 17-6803 is hereby amended to read as follows: 17-6803. ~~Before beginning~~ *If a corporation has not issued shares or has not commenced the business for which the corporation was organized, a majority of the incorporators, or, if directors were named in the articles of incorporation or have been elected, a majority of the directors, may surrender all of the corporation's rights and franchises by filing in the office of the secretary of state a certificate, executed by a majority of the incorporators or directors, stating that: (a) No shares of stock have been issued or that the business or activity for which the corporation was organized has not been begun; that (b) no part of the capital of the corporation has been paid or, if some capital has been paid, that the amount actually paid in for the corporation's shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto; that (c) if the corporation has begun business but it has not issued shares, all debts of the corporation have been paid; (d) if the corporation has not begun business but has issued stock certificates, all issued stock certificates, if any, have been surrendered and canceled; and that (e) all rights and franchises of the corporation are surrendered. Upon the filing of such certificate becoming effective in accordance with K.S.A. 17-6003 2015 Supp. 17-7911, and amendments thereto, the corporation shall be dissolved.*

Sec. 80. K.S.A. 17-6804 is hereby amended to read as follows: 17-6804. (a) ~~If it is~~ *should be* deemed advisable in the judgment of the board of directors of any corporation that it should be dissolved, the board, after the adoption of a resolution to that effect by a majority of the whole board at any meeting called for that purpose, shall ~~give notice by mail to each stockholder entitled to vote on a dissolution~~ *cause notice of the adoption of the resolution and of a meeting of stockholders to take action upon the resolution to be mailed to each stockholder entitled to vote thereon as of*

the record date for determining the stockholders entitled to notice of the meeting.

~~(b) At the meeting a vote shall be taken for and against the proposed dissolution. If a majority of the outstanding stock of the corporation entitled to vote votes for the proposed dissolution, a certificate stating that the dissolution has been authorized in accordance with the provisions of this section and setting forth the names and residences of the directors and officers shall be executed and filed in accordance with K.S.A. 17-6003 and amendments thereto. The secretary of state, upon being satisfied that the requirements of this section have been complied with, shall issue a certificate that the certificate has been filed, and thereupon, the corporation shall be dissolved upon the proposed dissolution. If a majority of the outstanding stock of the corporation entitled to vote thereon shall vote for the proposed dissolution, a certificate of dissolution shall be filed with the secretary of state pursuant to subsection (d).~~

~~(c) Whenever all the stockholders entitled to vote on a dissolution shall consent in writing to a dissolution, either in person or by duly authorized attorney, no meeting of directors or stockholders shall be necessary, but on filing the consent in the office of the secretary of state in accordance with K.S.A. 17-6003, and amendments thereto, the secretary of state, upon being satisfied that the requirements of this section have been complied with, shall issue a certificate that the consent to dissolution has been filed, and thereupon the corporation shall be dissolved. In the event that the consent is signed by an attorney, the original power of attorney or a photocopy thereof shall be attached to and filed with the consent. The consent filed with the secretary of state shall have attached to it the affidavit of the secretary or some other officer of the corporation stating that the consent has been signed by or on behalf of all the stockholders entitled to vote on a dissolution; in addition there shall be attached to the consent a certification by the secretary or some officer of the corporation setting forth the names and residences of the directors and officers of the corporation. *Dissolution of a corporation may also be authorized without action of the directors if all the stockholders entitled to vote thereon shall consent in writing and a certificate of dissolution shall be filed with the secretary of state pursuant to subsection (d).*~~

~~(d) If dissolution is authorized in accordance with this section, a certificate of dissolution shall be executed and filed, and shall become effective, in accordance with K.S.A. 2015 Supp. 17-7908 through 17-7911, and amendments thereto. Such certificate of dissolution shall set forth:~~

- ~~(1) The name of the corporation;~~
- ~~(2) the date dissolution was authorized;~~
- ~~(3) that the dissolution has been authorized by the board of directors and stockholders of the corporation, in accordance with subsections (a) and (b), or that the dissolution has been authorized by all of the stock-~~

holders of the corporation entitled to vote on a dissolution, in accordance with subsection (c); and

(4) the names and addresses of the directors and officers of the corporation.

(e) The resolution authorizing a proposed dissolution may provide that notwithstanding authorization or consent to the proposed dissolution by the stockholders, or the members of a nonstock corporation pursuant to K.S.A. 17-6805, and amendments thereto, the board of directors or governing body may abandon such proposed dissolution without further action by the stockholders or members.

(f) Upon a certificate of dissolution becoming effective in accordance with K.S.A. 2015 Supp. 17-7911, and amendments thereto, the corporation shall be dissolved.

(g) If the stockholders of a corporation having only two stockholders, each of which owns 50% of the stock therein, are unable to agree upon the desirability of dissolving the corporation and disposing of the corporate assets, either stockholder may file with the district court a petition stating that it desires to dissolve the corporation and to dispose of the assets thereof in accordance with a plan to be agreed upon by both stockholders. Such petition shall have attached thereto a copy of the proposed plan of dissolution and distribution and a certificate stating that copies of such petition and plan have been transmitted in writing to the other stockholder and to the directors and officers of such corporation.

Unless both stockholders file with the district court: (1) Within three months of the date of the filing of such petition, a certificate stating that they have agreed on such plan, or a modification thereof; and (2) within one year from the date of the filing of such petition, a certificate stating that the distribution provided by such plan has been completed, the court may either: (A) Dissolve such corporation and, by appointment of one or more receivers with all the powers and title of a receiver appointed under K.S.A. 17-6808, and amendments thereto, may administer and wind up its affairs; (B) order the redemption of the stock of one of the stockholders on such terms as are just and equitable; or (C) decline to grant any relief. Either or both of the above periods of time may be extended by agreement of the stockholders, evidenced by a certificate filed with the court prior to the expiration of such period.

Sec. 81. K.S.A. 17-6805 is hereby amended to read as follows: 17-6805. (a) Whenever it shall be desired to dissolve any *nonstock* corporation ~~having no capital stock~~, the governing body shall perform all the acts necessary for dissolution which are required by K.S.A. 17-6804, and amendments thereto, to be performed by the board of directors of a corporation having capital stock. ~~If~~ The following members of a *nonstock* corporation ~~having no capital stock~~ are entitled to vote for the election of members of its governing body, they shall perform all the acts necessary

for dissolution which are required by K.S.A. 17-6804, and amendments thereto, to be performed by the stockholders of a corporation having capital stock, *including dissolution without action of the members of the governing body if all the members of the corporation entitled to vote thereon shall consent in writing and a certificate of dissolution shall be filed with the secretary of state pursuant to K.S.A. 17-6804(d), and amendments thereto: (1) Any members entitled to vote for the election of the members of its governing body and any other members entitled to vote for dissolution under the articles of incorporation or the bylaws of such corporation, except those corporations that are the subject of the next paragraph; or (2) in the case of a nonprofit nonstock corporation, other than a nonprofit dental service corporation organized and operated under the nonprofit dental service corporation act, K.S.A. 40-19a01 et seq., and amendments thereto, any members entitled to vote for the election of the members of its governing body and any other members entitled to vote for dissolution under the articles of incorporation or the bylaws of such corporation voting at the meeting.* If there is no member entitled to vote ~~on such dissolution thereon~~, the dissolution of the corporation shall be authorized at a meeting of the governing body, upon the adoption of a resolution to dissolve by the vote of a majority of members of its governing body then in office. In all other respects, the method and proceedings for the dissolution of a *nonstock* corporation ~~having no capital stock~~ shall conform as nearly as may be ~~possible~~ to the proceedings prescribed by K.S.A. 17-6804, and amendments thereto, for the dissolution of corporations having capital stock.

(b) If a *nonstock* corporation ~~having no capital stock~~ has not commenced the business for which the corporation was organized, a majority of the governing body or, if none, a majority of the incorporators may surrender all of the corporation's rights and franchises by filing in the office of the secretary of state a certificate, executed by a majority of the incorporators or governing body, conforming as nearly as may be ~~possible~~ to the certificate prescribed by K.S.A. 17-6803, and amendments thereto.

Sec. 82. K.S.A. 17-6805a is hereby amended to read as follows: 17-6805a. Notwithstanding any provision of law or the articles of incorporation, the articles of incorporation of each nonprofit corporation that qualifies otherwise for an exemption under section 501(c)(3) of the internal revenue code of 1986, ~~as amended (26 U.S.C. § 501(c)(3))~~, shall be considered to contain the following provision:

Upon the dissolution of the corporation, ~~the board of directors or governing body of the corporation, after paying or providing for the payment of all liabilities of the corporation, shall dispose of all the assets of the corporation exclusively: (1) In accordance with the purposes of the corporation, in the manner determined by the board of directors or governing body; or (2) to organizations qualified for exemption under section~~

~~501(c)(3) of the internal revenue code of 1986, as amended (26 U.S.C. § 501(c)(3)), and specified by the board of directors or governing body. Any assets of the corporation not so disposed of shall be disposed of by the district court of the county where the principal office of the corporation is then located, exclusively for the purposes or to the organizations provided above, as determined by the court assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the internal revenue code of 1986 or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by the district court of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as the court shall determine, which are organized and operated exclusively for such purposes.~~

Sec. 83. K.S.A. 17-6807 is hereby amended to read as follows: 17-6807. (a) All corporations, whether they expire by their own limitation or are otherwise dissolved, including revocation or forfeiture of articles of incorporation pursuant to K.S.A. 17-6812 or 17-7510, and amendments thereto, shall be continued, nevertheless, for the term of three years from such expiration or dissolution or for such longer period as the district court in its discretion shall direct, bodies corporate for the purpose of prosecuting and defending suits, whether civil, criminal or administrative, by or against them, and of enabling them gradually to settle and close their business, to dispose of and convey their property, to discharge their liabilities and to distribute to their stockholders any remaining assets, but not for the purpose of continuing the business for which the corporation was organized. With respect to any action, suit or proceeding begun by or against the corporation either prior to or within three years after the date of its expiration or dissolution, the action shall not abate by reason of the dissolution of the corporation; ~~and~~. The corporation shall, solely for the purpose of such action, suit or proceeding, be continued as a body corporate beyond the three-year period and until any judgments, orders or decrees ~~thereon~~ *therein* shall be *fully* executed, without the necessity for any special direction to that effect *by the district court*.

(b) *K.S.A. 17-6808 through 17-6811 and section 6, and amendments thereto, shall apply to any corporation that has expired by its own limitation, and when so applied, all references in those sections to a dissolved corporation or dissolution shall include a corporation that has expired by its own limitation and to such expiration, respectively.*

Sec. 84. K.S.A. 17-6808 is hereby amended to read as follows: 17-6808. When any corporation organized under this ~~act~~ *code* shall be dissolved in any manner whatever, the district court, on application of any creditor, stockholder or director of the corporation, or any other person who shows good cause therefor, at any time, *may either* ~~may~~ appoint one

or more of the directors of the corporation *to be trustees*, or *appoint* one or more ~~other~~ persons to be receivers, of and for the corporation, ~~or both~~, to take charge of the corporation's property, and to collect the debts and property due and belonging to the corporation, with power to prosecute and defend, in the name of the corporation, or otherwise, all such suits as may be necessary or proper for the purposes aforesaid, and to appoint an agent or agents under them, and to do all other acts which might be done by the corporation, if in being, that may be necessary for the final settlement of the unfinished business of the corporation. The powers of the *trustees* or receivers may be continued as long as the court shall think necessary for the purposes aforesaid.

Sec. 85. K.S.A. 17-6809 is hereby amended to read as follows: 17-6809. The district court shall have jurisdiction of ~~the~~ *any* application prescribed in ~~K.S.A. 17-6808~~ *this article* and of all questions arising in the proceedings thereon, and may make such orders and decrees and issue injunctions therein as justice and equity shall require.

Sec. 86. K.S.A. 17-6810 is hereby amended to read as follows: 17-6810. ~~The directors or, if appointed by the district court, the receivers of a dissolved corporation, after payment of all allowances, expenses and costs, and the satisfaction of all special and general liens upon the funds of the corporation to the extent of their lawful priority, shall pay the other debts due from the corporation, if the funds in their hands shall be sufficient therefor, and if not, they shall distribute the same ratably among all the creditors who shall prove their debts in the manner that shall be directed by an order or decree of the court for that purpose. If there shall be any balance remaining after the payment of the debts and necessary expenses, they shall distribute and pay the same to and among those who shall be justly entitled thereto, as having been stockholders of the corporation or their legal representatives~~

(a) (1) *A dissolved corporation or successor entity which has followed the procedures described in section 6, and amendments thereto, shall:*

(A) *Pay the claims made and not rejected in accordance with section 6(a), and amendments thereto;*

(B) *post the security offered and not rejected pursuant to section 6(b)(2), and amendments thereto;*

(C) *post any security ordered by the district court in any proceeding under section 6(c), and amendments thereto; and*

(D) *pay or make provision for all other claims that are mature, known and uncontested or that have been finally determined to be owing by the corporation or such successor entity.*

(2) *Such claims or obligations shall be paid in full and any such provision for payment shall be made in full if there are sufficient assets. If there are insufficient assets, such claims and obligations shall be paid or provided for according to their priority, and, among claims of equal pri-*

ority, ratably to the extent of assets legally available therefor. Any remaining assets shall be distributed to the stockholders of the dissolved corporation, except that such distribution shall not be made before the expiration of 150 days from the date of the last notice of rejections given pursuant to section 6(a)(4), and amendments thereto. In the absence of actual fraud, the judgment of the directors of the dissolved corporation or the governing persons of such successor entity as to the provision made for the payment of all obligations under subsection (a)(1)(D) shall be conclusive.

(b) (1) A dissolved corporation or successor entity which has not followed the procedures described in section 6, and amendments thereto, shall, prior to the expiration of the period described in K.S.A. 17-6807, and amendments thereto, adopt a plan of distribution pursuant to which the dissolved corporation or successor entity shall:

(A) Pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional or unmatured contractual claims known to the corporation or such successor entity;

(B) make such provision as will be reasonably likely to be sufficient to provide compensation for any claim against the corporation which is the subject of a pending action, suit or proceeding to which the corporation is a party; and

(C) make such provision as will be reasonably likely to be sufficient to provide compensation for claims that have not been made known to the corporation or that have not arisen but that, based on facts known to the corporation or successor entity, are likely to arise or to become known to the corporation or successor entity within 10 years after the date of dissolution.

(2) The plan of distribution shall provide that such claims shall be paid in full and any such provision for payment made shall be made in full if there are sufficient assets. If there are insufficient assets, such plan shall provide that such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of assets legally available therefor. Any remaining assets shall be distributed to the stockholders of the dissolved corporation.

(c) Directors of a dissolved corporation or governing persons of a successor entity which has complied with subsection (a) or (b) shall not be personally liable to the claimants of the dissolved corporation.

(d) As used in this section, the term "successor entity" has the meaning set forth in section 6(e), and amendments thereto.

(e) As used in this section, the term "priority" does not refer either to the order of payments set forth in subsection (a)(1) or to the relative times at which any claims mature or are reduced to judgment.

(f) In the case of a nonprofit nonstock corporation, provisions of this section regarding distributions to members shall not apply to the extent

that those provisions conflict with any other applicable law or with that corporation's articles of incorporation or bylaws.

Sec. 87. K.S.A. 17-6811 is hereby amended to read as follows: 17-6811. ~~If any corporation becomes dissolved in any manner whatever before final judgment is obtained in any action pending or commenced in any court of this state against the corporation, the action shall not abate by reason thereof, but the dissolution of the corporation being suggested upon the record, and the names of the receivers of the corporation being entered upon the record, and notice thereof served upon the receivers, or if such service be impracticable, upon the counsel of record in such case, the action shall proceed to final judgment against the receivers in the name of the corporation~~

(a) *A stockholder of a dissolved corporation the assets of which were distributed pursuant to K.S.A. 17-6810(a) or (b), and amendments thereto, shall not be liable for any claim against the corporation in an amount in excess of such stockholder's pro rata share of the claim or the amount so distributed to such stockholder, whichever is less.*

(b) *A stockholder of a dissolved corporation the assets of which were distributed pursuant to K.S.A. 17-6810(a), and amendments thereto, shall not be liable for any claim against the corporation on which an action, suit or proceeding is not begun prior to the expiration of the period described in K.S.A. 17-6807, and amendments thereto.*

(c) *The aggregate liability of any stockholder of a dissolved corporation for claims against the dissolved corporation shall not exceed the amount distributed to such stockholder in dissolution.*

Sec. 88. K.S.A. 17-6812 is hereby amended to read as follows: 17-6812. (a) The district court shall have jurisdiction to revoke or forfeit the articles of incorporation of any corporation for abuse, misuse or nonuse of its corporate powers, privileges or franchises. The attorney general shall, upon ~~his~~ *the attorney general's* own motion or upon the relation of a proper party, ~~shall~~ proceed for this purpose by ~~commencing a quo warranto action~~ *petition* in the district court of the county in which the registered office of the corporation is located.

(b) The district court shall have power, by appointment of receivers or otherwise, to administer and wind up the affairs of any corporation whose articles of incorporation shall be revoked or forfeited by any court under any section of this ~~act~~ *code* or otherwise, and to make such orders and decrees with respect thereto as shall be just and equitable respecting its affairs and assets and the rights of its stockholders and creditors.

(c) No proceeding shall be instituted under this section for nonuse of any corporation's powers, privileges or franchises during the first two ~~(2)~~ years after its incorporation.

Sec. 89. K.S.A. 17-6813 is hereby amended to read as follows: 17-6813. Whenever any corporation is dissolved or its articles of incorpora-

tion forfeited by decree or judgment of the district court, the decree or judgment shall be forthwith filed by the clerk of such district court *in which the decree or judgment was entered and* in the office of the secretary of state, and a note thereof shall be made by the secretary of state on the corporation's articles of incorporation.

Sec. 90. K.S.A. 17-6902 is hereby amended to read as follows: 17-6902. (a) *Trustees or* receivers appointed by the district court of and for any corporation, and their respective survivors and successors, upon their appointment and qualification or upon the death, resignation or discharge of any *co-trustee or* co-receiver, shall be vested by operation of law and without any act or deed with the title of the corporation to all of its property, real, personal or mixed of whatsoever nature, kind, class or description, and wheresoever situate, except real estate situated outside this state.

(b) Within 20 days after the date of their qualification, *trustees or* receivers appointed by the court shall file in the office of the register of deeds of each county in this state in which any real estate belonging to the corporation may be situated, a certified copy of the order of their appointment and evidence of their qualification.

(c) This section shall not apply to receivers appointed *pendente lite*.

Sec. 91. K.S.A. 17-6903 is hereby amended to read as follows: 17-6903. All notices required to be given to stockholders and creditors in any action in which a *trustee or* receiver for a corporation was appointed shall be given by the clerk of the district court or in the manner provided by any applicable section of the code of civil procedure, unless otherwise ordered by the district court.

Sec. 92. K.S.A. 17-6904 is hereby amended to read as follows: 17-6904. As soon as convenient, *trustees or* receivers shall file in the office of the clerk of the district court of the county in which the proceeding is pending, a full and complete itemized inventory of all the assets of the corporation, which shall show their nature and probable value, and an account of all debts due from and to the corporation, as nearly as the same can be ascertained. They shall make a report to the court of their proceedings whenever and as often as the court shall direct.

Sec. 93. K.S.A. 17-6905 is hereby amended to read as follows: 17-6905. All creditors shall make proof under oath of their respective claims against the corporation and shall cause such proof of claim to be filed in the office of the clerk of the district court of the county in which the proceeding is pending ~~within six months from the date of the appointment of a receiver for the corporation, or within such other period of time if the court shall so order and direct~~ *the time fixed by and in accordance with the procedure established by the district court*. All creditors and claimants failing to do so, within the time limited by this section, or the time prescribed by the order of the court, may be barred by the court

from participating in the distribution of the assets of the corporation. The court also may prescribe what notice, by publication or otherwise, shall be given to the creditors of the time fixed for the filing and making proof of claims.

Sec. 94. K.S.A. 17-6906 is hereby amended to read as follows: 17-6906. (a) The clerk of the district court, immediately upon the expiration of the time fixed for the filing of claims, in compliance with the provisions of K.S.A. 17-6905, and amendments thereto, shall notify the *trustee or receiver* of the filing of the claims, and the *trustee or receiver*, within 30 days after receiving the notice, shall inspect the claims, and if the *trustee or receiver* or any creditor shall not be satisfied with the validity or correctness of the same, or any of them, the *trustee or receiver* shall forthwith notify the creditors whose claims are disputed of such decision. The *trustee or receiver* shall require all creditors whose claims are disputed to submit themselves to such examination in relation to their claims as the *trustee or receiver* shall direct, and the creditors shall produce such books and papers relating to their claims as shall be required. The *trustee or receiver* shall have power to examine, under oath or affirmation, all witnesses produced before the *trustee or receiver* touching the claims, and shall ~~recommend to the court the allowance or disallowance of~~ *pass upon and allow or disallow* the claims, or any part thereof, and notify the claimants of such determination.

(b) ~~The court shall approve, disapprove or modify the recommendations of the receiver and shall cause notice thereof to be given to the claimants. Within 30 days after receipt of such notice, any creditor or claimant dissatisfied with the court's determination shall have the right to a hearing thereon. Every creditor or claimant who shall have received notice from the receiver or trustee that such creditor's or claimant's claim has been disallowed in whole or in part may appeal to the district court within 30 days thereafter. The court, after hearing, shall determine the rights of the parties. Any party aggrieved thereby may appeal to the supreme court as a matter of right from the order or decree expressing such determination.~~

Sec. 95. K.S.A. 17-6907 is hereby amended to read as follows: 17-6907. Whenever the property of a corporation is at the time of the appointment of a *trustee or receiver* encumbered with liens of any character, and the validity, extent or legality of any such lien is disputed or brought in question, and the property of the corporation is of a character which will deteriorate in value pending the litigation respecting the lien, the district court may order the receiver or trustee to sell the property of the corporation, clear of all encumbrances, at public or private sale, for the best price that can be obtained therefor. The net proceeds arising from the sale thereof, after deducting the costs of the sale, shall be paid into

the court, there to remain subject to the order of the court, and to be disposed of as the court shall direct.

Sec. 96. K.S.A. 17-6908 is hereby amended to read as follows: 17-6908. The district court, before making distribution of the assets of a corporation among the creditors or stockholders thereof, shall allow and pay out of the assets: ~~(1)~~ (a) A reasonable compensation to the *trustee or receiver* for the *trustee's or receiver's* services; ~~(2)~~ (b) the cost and expenses incurred in and about the execution of ~~the receivership~~ *such trustee's or receiver's trust*, including reasonable ~~attorneys' attorney~~ fees; and ~~(3)~~ (c) the costs of the proceedings in the court.

Sec. 97. K.S.A. 17-6909 is hereby amended to read as follows: 17-6909. A *trustee or receiver*, upon application by the *trustee or receiver* in the court in which any suit is pending, shall be substituted as party plaintiff in the place of the corporation in any suit or proceeding which was so pending at the time of the *trustee's or receiver's* appointment. No action against a *trustee or receiver* of a corporation shall abate by reason of the *trustee's or receiver's* death, but, upon suggestion of the facts on the record, shall be continued against the *trustee's or receiver's* successor or against the corporation in case no new *trustee or receiver* is appointed.

Sec. 98. K.S.A. 17-6910 is hereby amended to read as follows: 17-6910. Whenever any corporation of this state, or any foreign corporation doing business in this state, shall become insolvent, the employees doing labor or service of whatever character in the regular employ of the corporation, shall have a lien upon the assets thereof for the amount of the wages due to them, not exceeding two months' wages, respectively, which shall be paid prior to any other debt or debts of the corporation. The word "employee" as used in this section shall not be construed to include ~~anyone owning or controlling a majority of the voting stock or voting power~~ *any of the officers* of the corporation.

Sec. 99. K.S.A. 17-6911 is hereby amended to read as follows: 17-6911. The liquidation of the assets and business of an insolvent corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the district court in its discretion, and subject to such condition as it may deem appropriate, may dismiss the proceedings and direct the *trustee or receiver* to redeliver to the corporation all of its remaining property and assets.

Sec. 100. K.S.A. 17-6913 is hereby amended to read as follows: 17-6913. (a) Any corporation of this state, ~~a plan of reorganization of which, pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, has been or shall be confirmed by the decree or order of a court of competent jurisdiction~~ *an order for relief with respect to which has been entered pursuant to the federal bankruptcy reform act of 1978 (11 U.S.C. §§ 101 et seq.)*, may put into

effect and carry out the plan and the ~~any~~ decrees and orders of the court or judge ~~relative thereto in such bankruptcy proceeding~~, and may take any proceeding and do any act provided in the plan corporate action provided or directed by such decrees and orders, without further action by its directors or stockholders. Such power and authority may be exercised, and such ~~proceedings and acts~~ corporate action may be taken, as may be directed by such decrees or orders, by the trustee or trustees of such corporation appointed *or elected* in the ~~reorganization~~ bankruptcy proceedings, or a majority thereof, or if none be appointed *or elected* and acting, by designated officers of the corporation, or by a ~~master or other~~ representative appointed by the court or judge, with like effect as if exercised and taken by unanimous action of the directors and stockholders of the corporation.

(b) In the manner provided in subsection (a) ~~of this section~~, but without limiting the generality or effect of the foregoing, such corporation may: Alter, amend or repeal its bylaws; constitute or reconstitute and classify or reclassify its board of directors, and name, constitute or appoint directors and officers in place of or in addition to all or some of the directors or officers then in office; amend its articles of incorporation, and make any change in its capital or capital stock, or any other amendment, change or alteration, or provision, authorized by this ~~act~~ code; be dissolved, transfer all or part of its assets, merge or consolidate as permitted by this ~~act~~ code, except that no stockholder shall have any statutory right of appraisal of such stockholder's stock; change the location of its registered office, change its resident agent and remove or appoint any agent to receive service of process; authorize and fix the terms, manner and conditions of, the issuance of bonds, debentures or other obligations, whether or not convertible into stock of any class, or bearing warrants or other evidences of optional rights to purchase or subscribe for stock of any class; or lease its property and franchises to any corporation, if permitted by law.

(c) A certificate of any amendment, change or alteration, or of dissolution, or any agreement of merger or consolidation, made by such corporation pursuant to the provisions of this section, shall be filed with the secretary of state in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7910, and amendments thereto, and, subject to ~~subsection (d) of K.S.A. 17-6003~~ 2015 Supp. 17-7911, and amendments thereto, shall thereupon become effective in accordance with its terms and the provisions of ~~the instrument as provided in~~ this subsection. Such certificate, agreement of merger or other instrument shall be made and executed, as may be directed by such decrees or orders, by the trustee or trustees appointed *or elected* in the ~~reorganization~~ bankruptcy proceedings, or a majority thereof, or, if none be appointed *or elected* and acting, by the officers of the corporation, or by a ~~master or other~~ representative appointed by the court, and shall certify that provision for the making of such certificate,

agreement or instrument is contained in a decree or order of a court having jurisdiction of a proceeding under ~~such applicable statute of the United States for the reorganization of such corporation~~ *the federal bankruptcy reform act of 1978 (11 U.S.C. §§ 101 et seq.)*.

(d) The provisions of this section shall cease to apply to such corporation upon the entry of a final decree in the ~~reorganization~~ *bankruptcy* proceedings closing the case and discharging the trustee or trustees, if any, *will not affect the validity of any act previously performed pursuant to subsections (a) through (c)*.

(e) On filing any certificate, agreement, report or other paper made or executed pursuant to the provisions of this section, there shall be paid to the secretary of state for the use of the state the same fees as are payable by corporations not in ~~reorganization~~ *bankruptcy* upon the filing of like certificates, agreements, reports or other papers.

Sec. 101. K.S.A. 17-7001 is hereby amended to read as follows: 17-7001. (a) At any time prior to the expiration of three years following the dissolution of a corporation pursuant to K.S.A. 17-6804, and amendments thereto, or, at any time prior to the expiration of such longer period as the court may have directed pursuant to K.S.A. 17-6807, and amendments thereto, a corporation may revoke the dissolution theretofore effected by it in the following manner:

(1) *For purposes of this section, the term "stockholders" shall mean the stockholders of record on the date the dissolution became effective.*

(2) The board of directors shall adopt a resolution recommending that the dissolution be revoked and directing that the question of the revocation be submitted to a vote at a special meeting of stockholders.

~~(2)~~ (3) Notice of the special meeting of stockholders shall be given in accordance with K.S.A. 17-6512, and amendments thereto, to each ~~stockholder whose shares were entitled to vote upon a proposed dissolution before the corporation was dissolved~~ *of the stockholders*.

~~(3)~~ (4) At the meeting, a vote of the stockholders shall be taken on ~~the~~ *a* resolution to revoke the dissolution. If a majority of the stock of the corporation which was outstanding and entitled to vote upon a dissolution at the time of its dissolution shall be voted for the resolution, a certificate of revocation of dissolution shall be executed in accordance with K.S.A. ~~17-6003~~ *2015 Supp. 17-7908 through 17-7910*, and amendments thereto, which shall state:

~~(i)~~ (A) The name of the corporation;

(B) *the address of the corporation's registered office in this state, which shall be stated in accordance with K.S.A. 2015 Supp. 17-7924(c), and amendments thereto, and the name of its resident agreement at such address;*

~~(ii)~~ (C) the names and respective addresses of its officers;

~~(iii)~~ (D) the names and respective addresses of its directors; and

~~(iv)~~ (E) that a majority of the stock of the corporation which was outstanding and entitled to vote upon a dissolution at the time of its dissolution have voted in favor of a resolution to revoke the dissolution, *or that, if applicable, in lieu of a meeting and vote of stockholders, the stockholders have given their written consent to the revocation in accordance with K.S.A. 17-6518, and amendments thereto.*

(b) Upon the filing *in the office of the secretary of state* of the certificate of revocation of dissolution ~~in the office of the secretary of state~~, the revocation of the dissolution shall become effective and the corporation may again carry on its business.

~~(c) If, after the dissolution of any such corporation became effective, any other corporation organized under the laws of this state shall have adopted the same name as such corporation, or shall have adopted a name so nearly similar thereto as not to distinguish it from such corporation, or any foreign corporation shall have qualified to do business in this state under the same name as such corporation or under a name so nearly similar thereto as not to distinguish it from such corporation, then such corporation shall not be reinstated under the same name which it bore when its dissolution became effective. In such case, it shall adopt and be reinstated under some other name, and the certificate to be filed under the provisions of this section shall set forth the name borne by such corporation at the time its dissolution became effective and the new name under which it is to be reinstated.~~

~~(d) Upon the filing of the certificate with the secretary of state to which subsection (b) refers, the provisions of subsection (d) of K.S.A. 17-6501(c), and amendments thereto, shall govern, and the period of time the corporation was in dissolution shall be included within the calculation of the 30-day and 13-month periods to which subsection (d) of K.S.A. 17-6501(c), and amendments thereto, refers. An election of directors, however, may be held at the special meeting of stockholders to which subsection (a) refers, and; in that event, that meeting of stockholders shall be deemed an annual meeting of stockholders for purposes of subsection (d) of K.S.A. 17-6501(c), and amendments thereto.~~

(d) If, after the dissolution became effective, any other entity identified in K.S.A. 2015 Supp. 17-7918, and amendments thereto, shall have adopted the same name as the corporation, or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation, or any foreign covered entity shall have qualified to do business in this state under the same name as the corporation or under a name so nearly similar thereto as not to distinguish it from the corporation, then, in such case, the corporation shall not be reinstated under the same name which it bore when its dissolution became effective, but shall adopt and be reinstated under some other name, and in such case the certificate to be filed under this section shall set forth the name borne by the corporation at the time

its dissolution became effective and the new name under which the corporation is to be reinstated.

(e) Nothing in this section shall be construed to affect the jurisdiction or power of the district court under K.S.A. 17-6808 and 17-6809, and amendments thereto.

(f) *At any time prior to the expiration of three years following the dissolution of a nonstock corporation pursuant to K.S.A. 17-6805, and amendments thereto, or, at any time prior to the expiration of such longer period as the district court may have directed pursuant to K.S.A. 17-6807, and amendments thereto, a nonstock corporation may revoke the dissolution effected by it in a manner analogous to that by which the dissolution was authorized, including: (1) If applicable, a vote of the members entitled to vote, if any, on the dissolution; and (2) the filing of a certificate of revocation of dissolution containing information comparable to that required by subsection (a)(4). Notwithstanding the foregoing, only subsections (b), (d) and (e) shall apply to nonstock corporations.*

Sec. 102. K.S.A. 2015 Supp. 17-7002 is hereby amended to read as follows: 17-7002. (a) *As used in this section, the term: (1) "Articles of incorporation" includes the articles of incorporation of a corporation organized under any special act or any law of this state; and (2) "authority to engage in business" includes the registration of any foreign corporation under K.S.A. 2015 Supp. 17-7931, and amendments thereto.*

(b) ~~Any corporation may procure an extension, renewal or reinstatement, at any time before the expiration of the time limited for its existence and any corporation whose articles of incorporation or authority to engage in business has become forfeited or void pursuant to this code and any corporation whose articles of incorporation or authority to engage in business has expired by reason of failure to renew it or whose articles of incorporation or authority to engage in business has been renewed, but, through failure to comply strictly with the provisions of this code, the validity of whose renewal has been brought into question, at any time procure an extension, renewal or reinstatement of its articles of incorporation, if a domestic corporation, or its authority to engage in business, if a foreign corporation, together with all the rights, franchises, privileges and immunities and subject to all of its duties, debts and liabilities which had been secured or imposed by its original articles of incorporation, and all amendments thereto, or by its authority to engage in business, as the case may be, and may designate a new registered office and resident agent in the following instances:~~

~~(1) At any time before the expiration of the time limited for the corporation's existence;~~

~~(2) at any time, where the corporation's articles of incorporation, if a domestic corporation, or the authority to engage in business, if a foreign~~

~~corporation, has become inoperative by law for nonpayment of taxes or fees, or failure to file its annual report;~~

~~(3) at any time, where the articles of incorporation of a domestic corporation or the authority to engage in business of a foreign corporation has expired by reason of failure to renew it;~~

~~(4) at any time, where the articles of incorporation of a domestic corporation or the authority to engage in business of a foreign corporation has been renewed, but through failure to comply strictly with the provisions of this act, the validity of such renewal has been brought into question; and~~

~~(5) at any time, where the articles of incorporation of a domestic corporation or the authority to engage in business of a foreign corporation has been forfeited pursuant to K.S.A. 2015 Supp. 17-7929 or 17-7934, and amendments thereto by complying with the requirements of this section.~~

~~(b)~~ (c) The extension, renewal or reinstatement of the articles of incorporation or authority to engage in business may be procured by executing and filing a certificate in accordance with K.S.A. 2015 Supp. 17-7908 through 17-7910, and amendments thereto.

~~(c)~~ (d) The certificate required by subsection ~~(b)~~ (c) shall state:

(1) The name of the corporation, which shall be the existing name of the corporation or the name it bore when its articles of incorporation or authority to engage in business expired, except as provided in subsection ~~(c)~~ (f) and the date of filing of its original articles of incorporation with the secretary of state;

(2) ~~if a new registered office and resident agent is designated, the address of the corporation's registered office in this state, which shall include the street, city and zip code be stated in accordance with K.S.A. 2015 Supp. 17-7924(c), and amendments thereto, and the name of its resident agent at such address;~~

(3) whether or not the renewal, or reinstatement is to be perpetual and, if not perpetual, the time for which the renewal or reinstatement is to continue; and, in case of renewal before the expiration of the time limited for its existence, the date when the renewal is to commence, which shall be prior to the date of the expiration of the old articles of incorporation or authority to engage in business which it is desired to renew;

(4) that the corporation desiring to be renewed or reinstated and so renewing or reinstating its corporate existence was duly organized under the laws of the state of its original incorporation;

(5) the date when the articles of incorporation or the authority to engage in business would expire, if such is the case, or such other facts as may show that the articles of incorporation or the authority to engage in business has become ~~inoperative~~ forfeited or void pursuant to this code, or that the validity of any renewal has been brought into question; and

(6) that the certificate for reinstatement is filed by authority of those

who were directors or members of the governing body of the corporation at the time its articles of incorporation or the authority to engage in business expired, or who were elected directors or members of the governing body of the corporation as provided in subsection ~~(g)~~ (h).

~~(d)~~ (e) Upon the filing of the certificate in accordance with K.S.A. 2015 Supp. 17-7908 through 17-7910, and amendments thereto, the corporation shall be renewed or reinstated with the same force and effect as if its articles of incorporation or authority to engage in business had not become inoperative and void ~~been forfeited or void pursuant to this code~~ or had not expired by limitation. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed within the scope of its articles of incorporation or authority to engage in business by the corporation, its officers and agents during the time when its articles of incorporation ~~were inoperative or authority to engage in business was forfeited or void pursuant to this code~~, or after their expiration by limitation, with the same force and effect and to all intents and purposes as if the articles of incorporation had at all times remained in full force and effect. All real and personal property, rights and credits, which belonged to the corporation at the time its articles of incorporation ~~became inoperative or authority to engage in business became forfeited or void pursuant to this code~~, or expired by limitation and which were not disposed of prior to the time of its renewal or reinstatement shall be vested in the corporation after its renewal or reinstatement, as fully and amply as they were held by the corporation at and before the time its articles of incorporation ~~became inoperative or authority to engage in business became forfeited or void pursuant to this code~~, or expired by limitation, and the corporation after its renewal or reinstatement shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its officers and agents prior to its reinstatement, as if its articles of incorporation or authority to engage in business had ~~remained~~ at all times *remained* in full force and effect.

~~(e)~~ (f) If, since the articles of incorporation became ~~inoperative or void for nonpayment of taxes or fees, or, failure to file annual reports forfeited or void pursuant to this code~~, or expired by limitation, any other corporation organized under the laws of this state shall have adopted the same name as the corporation sought to be renewed or reinstated or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be renewed or reinstated, or any foreign corporation registered in accordance with K.S.A. 2015 Supp. 17-7931, and amendments thereto, shall have adopted the same name as the corporation sought to be renewed or reinstated, or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be renewed or reinstated, then in such case the corporation to be renewed or reinstated shall not be renewed under the same name which it bore when its articles of incorporation became ~~inoperative forfeited or void~~

pursuant to this code or expired, but shall *adopt or* be renewed under some other name; and in such case the certificate to be filed under the provisions of this section shall set forth the name borne by the corporation at the time its articles of incorporation became ~~inoperative~~ *forfeited* or void *pursuant to this code*, or expired and the new name under which the corporation is to be renewed or reinstated.

~~(f)~~ (g) Any corporation ~~seeking to renew or reinstate that renews or reinstates~~ its articles of incorporation ~~under the provisions of this act or authority to engage in business under this code~~ shall file all annual reports and pay to the secretary of state an amount equal to all fees and any penalties thereon due. Nonprofit corporations shall file only the annual reports for the three most recent reporting periods, but shall pay all fees due.

~~(g)~~ (h) If a sufficient number of the last acting officers of any corporation desiring to renew or reinstate its articles of incorporation are not available by reason of death, unknown address or refusal or neglect to act, the directors of the corporation or those remaining on the board, even if only one, may elect successors to such officers. In any case where there shall be no directors of the corporation available for the purposes aforesaid, the stockholders may elect a full board of directors, as provided by the bylaws of the corporation, and the board shall then elect such officers as are provided by law, by the articles of incorporation or by the bylaws to carry on the business and affairs of the corporation. A special meeting of the stockholders for the ~~purpose~~ *purposes* of electing directors may be called by any officer, director or stockholder upon notice given in accordance with K.S.A. 17-6512, and amendments thereto.

~~(h)~~ (i) After a reinstatement of the articles of incorporation of the corporation shall have been effected, ~~except where the provisions of K.S.A. 17-6501(c), and amendments thereto, shall govern and the period of time the articles of incorporation of the corporation was forfeited pursuant to this code, or after its expiration by limitation, shall be included within the calculation of the 30-day and 13-month periods to which K.S.A. 17-6501(c), and amendments thereto, refers.~~ A special meeting of stockholders ~~has been called~~ *held* in accordance with the provisions of subsection (g), the officers who signed the certificate of reinstatement jointly ~~shall call forthwith a special subsection (h) shall be deemed an annual meeting of the stockholders of the corporation upon notice given in accordance with K.S.A. 17-6512, and amendments thereto, and at the special meeting the stockholders shall elect a full board of directors, which board shall then elect such officers as are provided by law, by the articles of incorporation or the bylaws to carry on the business and affairs of the corporation for purposes of K.S.A. 17-6501(c), and amendments thereto.~~

~~(i)~~ (j) Whenever it shall be desired to renew or reinstate the articles of incorporation *or authority to engage in business* of any *nonstock* corporation ~~not for profit and having no capital stock~~, the governing body

shall perform all the acts necessary for the renewal or reinstatement of the articles of incorporation of the corporation *or its authority to engage in business* which are performed by the board of directors in the case of a corporation having capital stock; *and* the members of any *nonstock* corporation ~~not for profit and having no capital stock~~ who are entitled to vote for the election of members of its governing body *and any other members entitled to vote for dissolution under the articles of incorporation or bylaws of such corporation*, shall perform all the acts necessary for the renewal or reinstatement of the articles of *incorporation* of the corporation *or its authority to engage in business* which are performed by the stockholders in the case of a corporation having capital stock. In all other respects, the procedure for the renewal or reinstatement of the articles of incorporation ~~of a corporation not for profit and having no capital stock~~ *or authority to engage in business of a nonstock corporation* shall conform, as nearly as may be applicable, to the procedure prescribed in this section for the renewal or ~~reinstatement~~ *revival* of the articles of incorporation of a corporation having capital stock, *except that subsection (i) shall not apply to nonstock corporations.*

Sec. 103. K.S.A. 17-7003 is hereby amended to read as follows: 17-7003. Any corporation desiring to renew, extend and continue its corporate existence, *shall*, upon complying with the provisions of K.S.A. 17-7002, and amendments thereto, ~~shall be and continue as a corporation~~ for the time stated in its certificate of renewal, *as a corporation* and *shall*, in addition to the rights, privileges and immunities conferred by its articles of incorporation, ~~shall~~ possess and enjoy all the benefits of this ~~act~~ *code*, which are applicable to the nature of its business, and shall be subject to the restrictions and liabilities ~~imposed by this act~~ *imposed on such corporations.*

Sec. 104. K.S.A. 17-7101 is hereby amended to read as follows: 17-7101. (a) When the officers, directors or stockholders of any corporation shall be liable by the provisions of this ~~act~~ *code* to pay the debts of the corporation, or any part thereof, any person to whom they are liable may have an action against any one or more of them. The petition in any such action shall state the claim against the corporation and the ground on which the plaintiff expects to charge the defendants personally.

(b) No suit shall be brought against any officer, director or stockholder for any debt of a corporation of which ~~he~~ *such person* is an officer, director or stockholder, until judgment be obtained therefor against the corporation and execution thereon returned unsatisfied.

Sec. 105. K.S.A. 17-7102 is hereby amended to read as follows: 17-7102. When any officer, director or stockholder shall pay any debt of a corporation for which ~~he~~ *such person* is made liable by the provisions of this ~~act~~, ~~he~~ *code*, *such person* may recover the amount so paid in an action against the corporation for money paid for its use. In any such action,

only the property of the corporation shall be liable to be taken, and not the property of any stockholder.

Sec. 106. K.S.A. 17-7201 is hereby amended to read as follows: 17-7201. (a) K.S.A. 17-7201 ~~to through 17-7216, inclusive and amendments thereto~~, apply to all close corporations, as defined in K.S.A. 17-7202, *and amendments thereto*. Unless a corporation elects to become a close corporation under the foregoing sections in the manner prescribed therein, it shall be subject in all respects to the provisions of this ~~act code~~, except the provisions of K.S.A. 17-7201 ~~to through 17-7216, inclusive and amendments thereto~~.

(b) All provisions of this ~~act code~~ shall be applicable to all close corporations, as defined in K.S.A. 17-7202, *and amendments thereto*, except as otherwise provided in K.S.A. 17-7201 ~~to through 17-7216, inclusive and amendments thereto~~.

Sec. 107. K.S.A. 17-7203 is hereby amended to read as follows: 17-7203. A close corporation shall be formed in accordance with K.S.A. 17-6001; *and 17-6002 and* ~~17-6003~~ K.S.A. 2015 Supp. 17-7908 *through 17-7910, and amendments thereto*, except that:

(a) Its articles of incorporation shall contain a heading stating the name of the corporation and that it is a close corporation; and

(b) Its articles of incorporation shall contain the provisions required by K.S.A. 17-7202, *and amendments thereto*.

Sec. 108. K.S.A. 17-7204 is hereby amended to read as follows: 17-7204. Any corporation organized under the ~~laws of this state~~ *Kansas general corporation code* may become a close corporation *under K.S.A. 17-7201 through 17-7216, and amendments thereto*, by executing and filing, in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7908 *through 17-7910, and amendments thereto*, a certificate of amendment of its articles of incorporation which shall contain: ~~(1)~~ (a) A statement that it elects to become a close corporation; ~~(2)~~ (b) the provisions required by K.S.A. 17-7202, and amendments thereto, to appear in the articles of incorporation of a close corporation; and ~~(3)~~ (c) a heading stating the name of the corporation and that it is a close corporation. Such amendment shall be adopted in accordance with the requirements of K.S.A. 17-6601 or 17-6602, and amendments thereto, except that it must be approved by a vote of the holders of record of at least $\frac{2}{3}$ of the shares of each class of stock of the corporation which are outstanding.

Sec. 109. K.S.A. 17-7205 is hereby amended to read as follows: 17-7205. A close corporation continues to be such and to be subject to the provisions of K.S.A. 17-7201 ~~to through 17-7216, inclusive and amendments thereto~~, until:

(a) It files with the secretary of state a certificate of amendment deleting from its articles of incorporation the provisions required or per-

mitted by K.S.A. 17-7202, *and amendments thereto*, to be stated in the articles of incorporation to qualify it as a close corporation; or

(b) any one of the provisions or conditions required or permitted by K.S.A. 17-7202, *and amendments thereto*, to be stated in the articles of incorporation to qualify a corporation as a close corporation has been breached, in fact, and neither the corporation nor any of its stockholders takes the steps required by K.S.A. 17-7208, *and amendments thereto*, to prevent such loss of status or to remedy such breach.

Sec. 110. K.S.A. 17-7206 is hereby amended to read as follows: 17-7206. (a) A corporation may voluntarily terminate its status as a close corporation and cease to be subject to the provisions of this ~~act~~ *code* relating thereto by amending its articles of incorporation to delete therefrom the additional provisions required or permitted by K.S.A. 17-7202, *and amendments thereto*, to be stated in the articles of incorporation of a close corporation. Any such amendment shall be adopted and shall become effective in accordance with K.S.A. 17-6602, *and amendments thereto*, except that it must be approved by vote of the holders of record of at least ~~two-thirds (2/3)~~ of the shares of each class of stock of the corporation which are outstanding.

(b) The articles of incorporation of a close corporation may provide that on any amendment to terminate its status as a close corporation, a vote greater than ~~two-thirds (2/3)~~ or a vote of all shares of any class shall be required; and if the articles of incorporation contain such a provision, that provision shall not be amended, repealed or modified by any vote less than ~~that required to terminate the corporation's status as a close corporation~~ *such greater vote*.

Sec. 111. K.S.A. 2015 Supp. 17-7207 is hereby amended to read as follows: 17-7207. (a) If stock of a close corporation is issued or transferred to any person who is not entitled under any provision of the articles of incorporation permitted by ~~subsection (b) of~~ K.S.A. 17-7202(b), *and amendments thereto*, to be a holder of record of stock of such corporation, and if the certificate for such stock conspicuously notes *or the corporation has notified the registered owner of uncertificated stock pursuant to K.S.A. 17-6401(f), and amendments thereto*, of the qualifications of the persons entitled to be holders of record thereof, such person is conclusively presumed to have notice of the fact of ~~his~~ *such person's* ineligibility to be a stockholder.

(b) If the articles of incorporation of a close corporation state the number of persons, not in excess of 35, who are entitled to be holders of record of its stock, and if the certificate for such stock conspicuously states *or the corporation has notified the registered owner of uncertificated stock pursuant to K.S.A. 17-6401(f), and amendments thereto*, of such number, and if the issuance or transfer of stock to any person would cause the stock to be held by more than such number of persons, the person to

whom such stock is issued or transferred is conclusively presumed to have notice of this fact.

(c) If a stock certificate of any close corporation conspicuously notes *or the corporation has notified the registered owner of uncertificated stock pursuant to K.S.A. 17-6401(f), and amendments thereto*, of the fact of a restriction on transfer of stock of the corporation, and the restriction is one which is permitted by K.S.A. 17-6426, *and amendments thereto*, the transferee of the stock is conclusively presumed to have notice of the fact that ~~he~~ *such person* has acquired stock in violation of the restriction, if such acquisition violates the restriction.

(d) Whenever any person to whom stock of a close corporation has been issued or transferred has, or is conclusively presumed under this section to have, notice either *that*: (1) ~~that he~~ *Such person* is a person not eligible to be a holder of stock of the corporation, ~~or~~; (2) ~~that~~ transfer of stock to ~~him~~ *such person* would cause the stock of the corporation to be held by more than the number of persons permitted by its articles of incorporation to hold stock of the corporation; ~~or~~; (3) ~~that~~ the transfer of stock is in violation of a restriction on transfer of stock, the corporation, at its option, may refuse to register transfer of the stock into the name of the transferee.

(e) The provisions of subsection (d) shall not be applicable if the transfer of stock, even though otherwise contrary to subsection (a), (b) or (c), has been consented to by all the stockholders of the close corporation, or if the close corporation has amended its articles of incorporation in accordance with K.S.A. 17-7206, *and amendments thereto*.

(f) The term “transfer,” as used in this section, is not limited to a transfer for value.

(g) The provisions of this section do not impair in any way any rights of a transferee regarding any right to rescind the transaction or to recover under any applicable warranty, express or implied.

Sec. 112. K.S.A. 17-7208 is hereby amended to read as follows: 17-7208. (a) If any event occurs, as a result of which one or more of the provisions or conditions included in a close corporation’s articles of incorporation, pursuant to K.S.A. 17-7202, and amendments thereto, to qualify it as a close corporation has been breached, the corporation’s status as a close corporation shall terminate unless:

(1) Within 30 days after the occurrence of the event, or within 30 days after the event has been discovered, whichever is later, the corporation files with the secretary of state a certificate, executed in accordance with K.S.A. ~~17-6003~~ *2015 Supp. 17-7908 through 17-7910*, and amendments thereto, stating that a specified provision or condition included in its articles of incorporation pursuant to K.S.A. 17-7202, and amendments thereto, to qualify it as a close corporation has ceased to be applicable, and furnishes a copy of such certificate to each stockholder; and

(2) the corporation concurrently with the filing of such certificate takes such steps as are necessary to correct the situation which threatens its status as a close corporation, including, without limitation, the refusal to register the transfer of stock which has been wrongfully transferred as provided by K.S.A. 17-7207, and amendments thereto, or a proceeding under subsection (b).

(b) The district court, upon the suit of the corporation or any stockholder, shall have jurisdiction to issue all orders necessary to prevent the corporation from losing its status as a close corporation, or to restore its status as a close corporation, by enjoining or setting aside any act or threatened act on the part of the corporation or a stockholder which would be inconsistent with any of the provisions or conditions required or permitted by K.S.A. 17-7202, and amendments thereto, to be stated in the articles of incorporation for a close corporation, unless it is an act approved in accordance with K.S.A. 17-7206, and amendments thereto. The *district* court may enjoin or set aside any transfer or threatened transfer of stock of a close corporation which is contrary to the terms of its articles of incorporation or of any transfer restriction permitted by K.S.A. 17-6426, and amendments thereto, and may enjoin any public offering, as defined in K.S.A. 17-7202, and amendments thereto, or threatened public offering of stock of the close corporation.

Sec. 113. K.S.A. 17-7209 is hereby amended to read as follows: 17-7209. If a restriction on the transfer of a security of a close corporation is held not to be authorized by K.S.A. 17-6426, *and amendments thereto*, the corporation, nevertheless, shall have an option, for a period of ~~thirty~~ ~~(30)~~ days after the judgment setting aside the restriction becomes final, to acquire the restricted security at a price which is agreed upon by the parties, or if no agreement is reached as to price, then at the fair value as determined by the district court. In order to determine fair value, the court may appoint an appraiser to receive evidence and report to the court ~~his~~ *such appraiser's* findings and recommendation as to fair value. ~~The appraiser shall have such powers and shall proceed, so far as applicable, in the same manner as appraisers appointed under K.S.A. 17-6712.~~

Sec. 114. K.S.A. 17-7211 is hereby amended to read as follows: 17-7211. (a) The articles of incorporation of a close corporation may provide that the business of the corporation shall be managed by the stockholders of the corporation, rather than by a board of directors. So long as this provision continues in effect: (1) No meeting of stockholders need be called to elect directors; (2) unless the context clearly requires otherwise, the stockholders of the corporation shall be deemed to be directors for purposes of applying provisions of this ~~act~~ *code*; (3) unless provided otherwise in the articles of incorporation or by agreement made between the stockholders, action by stockholders shall be taken by the voting of shares of stock in the same manner as provided in K.S.A. 17-6502(a), *and amend-*

ments thereto; and (4) the stockholders of the corporation shall be subject to all liabilities of directors. Such a provision may be inserted in the articles of incorporation by amendment, if all incorporators and subscribers or all holders of record of all of the outstanding stock, whether or not having voting power, authorize such a provision. An amendment to the articles of incorporation to delete such a provision shall be adopted by a vote of the holders of a majority of all outstanding stock of the corporation, whether or not otherwise entitled to vote.

(b) If the articles of incorporation contain a provision authorized by this section, the existence of such provision shall be noted conspicuously on the face or back of every stock certificate issued by such corporation *or, in the case of uncertificated shares, contained in the notice sent pursuant to K.S.A. 17-6401(f), and amendments thereto.*

Sec. 115. K.S.A. 17-7212 is hereby amended to read as follows: 17-7212. (a) In addition to the provisions of K.S.A. 17-6516, *and amendments thereto*, respecting the appointment of a custodian for any corporation, the district court, upon application of any stockholder, may appoint one or more persons to be custodians, and, if the corporation is insolvent, to be receivers, of any close corporation when:

(1) Pursuant to K.S.A. 17-7211, *and amendments thereto*, the business and affairs of the corporation are managed by the stockholders and they are so divided that the business of the corporation is suffering or is threatened with irreparable injury, and any remedy with respect to such deadlock provided in the articles of incorporation or bylaws or in any written agreement of the stockholders has failed; or

(2) The petitioning stockholder has the right to dissolution of the corporation under a provision of the articles of incorporation permitted by K.S.A. 17-7215, *and amendments thereto.*

(b) In lieu of appointing a custodian for a close corporation under this section or K.S.A. 17-6516, *and amendments thereto*, the court may appoint a provisional director, whose powers and status shall be as provided in K.S.A. 17-7213, *and amendments thereto*, if the court determines that it would be in the best interest of the corporation. Such appointment shall not preclude any subsequent order of the court appointing a custodian for such corporation.

Sec. 116. K.S.A. 17-7213 is hereby amended to read as follows: 17-7213. (a) Notwithstanding any contrary provision of the articles of incorporation or the bylaws or agreement of the stockholders, the district court may appoint a provisional director for a close corporation, if the directors are so divided respecting the management of the corporation's business and affairs that the votes required for action by the board of directors cannot be obtained, with the consequence that the business and affairs of the corporation can no longer be conducted to the advantage of the stockholders generally.

(b) An application for relief under this section must be filed: (1) By at least ~~one-half~~ ($\frac{1}{2}$) of the number of directors then in office;; (2) by the holders of at least ~~one-third~~ ($\frac{1}{3}$) of all stock then entitled to elect directors;; or (3) if there be more than one class of stock then entitled to elect one or more directors, by the holders of ~~two-thirds~~ ($\frac{2}{3}$) of the stock of any such class, ~~but~~. The articles of incorporation of a close corporation may provide that a lesser proportion of the directors or of the stockholders or of a class of stockholders may apply for relief under this section.

(c) A provisional director shall be an impartial person who is neither a stockholder nor a creditor of the corporation or of any subsidiary or affiliate of the corporation, and whose further qualifications, if any, may be determined by the district court. A provisional director is not a receiver of the corporation and does not have the title and powers of a custodian or receiver appointed under K.S.A. 17-6516 or 17-6901, ~~and amendments thereto~~. A provisional director shall have all the rights and powers of a duly elected director of the corporation, including the right to notice of and to vote at meetings of directors, until such time as ~~he~~ *such person* shall be removed by order of the court, or by the holders of a majority of all shares then entitled to vote to elect directors, or by the holders of ~~two-thirds~~ ($\frac{2}{3}$) of the shares of that class of voting shares which filed the application for appointment of a provisional director. ~~His~~ *A provisional director's* compensation shall be determined by agreement between ~~him~~ *such person* and the corporation, subject to approval of the court, which may fix ~~his~~ *such person's* compensation in the absence of agreement or in the event of disagreement between the provisional director and the corporation.

(d) Even though the requirements of subsection (b) ~~of this section~~, relating to the number of directors or stockholders who may petition for appointment of a provisional director are not satisfied, the district court, nevertheless, may appoint a provisional director if permitted by ~~subsection (b) of~~ K.S.A. 17-7212(b), ~~and amendments thereto~~.

Sec. 117. K.S.A. 17-7215 is hereby amended to read as follows: 17-7215. (a) The articles of incorporation of any close corporation may include a provision granting to any stockholder, or to the holders of any specified number or percentage of shares of any class of stock, an option to have the corporation dissolved at will or upon the occurrence of any specified event or contingency. Whenever any such option to dissolve is exercised, the stockholders exercising such option shall give written notice thereof to all other stockholders. After the expiration of ~~thirty~~ (30) days following the sending of such notice, the dissolution of the corporation shall proceed as if the required number of stockholders having voting power had voted in favor thereof.

(b) If the articles of incorporation, as originally filed, do not contain a provision authorized by subsection (a), the articles may be amended to

include such provision if adopted by the affirmative vote of the holders of all the outstanding stock, whether or not entitled to vote, unless the articles of incorporation specifically authorize such an amendment by a vote which shall be not less than ~~two-thirds~~ ($\frac{2}{3}$) of all the outstanding stock whether or not entitled to vote.

(c) Each stock certificate in any corporation whose articles of incorporation authorize dissolution, as permitted by this section, shall conspicuously note on the face thereof *or, in the case of uncertificated shares, contained in the notice sent pursuant to K.S.A. 17-6401(f), and amendments thereto*, the existence of the provision. Unless noted conspicuously on the face of the stock certificate *or in the notice sent pursuant to K.S.A. 17-6401(f), and amendments thereto, or unless the transferee had actual knowledge of or consented to the dissolution*, the provision is ineffective.

Sec. 118. K.S.A. 17-7302 is hereby amended to read as follows: 17-7302. (a) Whenever any foreign corporation admitted to do business in this state is a party to a merger or consolidation with any other foreign corporation, whether or not admitted to do business in this state, such foreign corporation shall file with the secretary of state of this state, within 30 days after the time the merger or consolidation becomes effective, a certificate of the proper officer of the jurisdiction under the laws of which the merger or consolidation was effected, attesting to such merger or consolidation and stating:

- (1) The corporate parties thereto;
 - (2) the time when such merger or consolidation became effective;
- and
- (3) that the resulting or surviving corporation is a corporation in good standing in such jurisdiction.

(b) Whenever any foreign corporation admitted to do business in this state shall amend its articles of incorporation in a manner which affects any of the information contained on such corporation's application to do business in Kansas, the corporation shall file with the secretary of state, within 30 days after the amendment is adopted, a certificate of the proper officer of the jurisdiction in which such corporation has been incorporated attesting to such amendment. In the alternative, any foreign corporation may amend its original application for authority to do business in Kansas by filing a certificate of amendment certifying that such amendment has been duly adopted and executed in accordance with K.S.A. ~~17-6003~~ 2015 Supp. 17-7908 through 17-7910, and amendments thereto.

Sec. 119. K.S.A. 17-7305 is hereby amended to read as follows: 17-7305. (a) Unless authority is expressly conferred by another law of this state, no foreign corporation shall possess the power of issuing bills, notes or other evidences of debt for circulation as money, or the power of carrying on the business of receiving deposits of money.

(b) Foreign corporations authorized to do business in this state which

are organized to buy, sell and otherwise deal in notes, open accounts and other similar evidences of debt, or to loan money and to take notes, open accounts and other similar evidences of debt as collateral security therefor, shall not be deemed to be engaging in the business of banking.

(c) Any corporation organized under the laws of another state, territory or foreign country, and authorized to do business in this state, shall be subject to the same provisions, judicial control, restrictions and penalties, except as otherwise provided in ~~K.S.A. 17-7301 to 17-7302~~ *through 17-7308 and K.S.A. 2015 Supp. 17-7930 through 17-7937, inclusive and amendments thereto*, as corporations organized under the laws of this state.

Sec. 120. K.S.A. 17-7307 is hereby amended to read as follows: 17-7307. (a) A foreign corporation which is required to comply with the provisions of ~~K.S.A. 17-7301 and 17-7302 and K.S.A. 2015 Supp. 17-7930 through 17-7934, and amendments thereto~~, and which has done business in this state without authority shall not maintain any action or special proceeding in this state, unless and until such corporation has been authorized to do business in this state and has paid to the state all taxes, fees and penalties which would have been due for the years or parts thereof during which it did business in this state without authority. This prohibition shall not apply to any successor in interest of any such foreign corporation.

(b) The failure of a foreign corporation to obtain authority to do business in this state shall not impair the validity of any contract or act of the foreign corporation or the right of any other party to the contract to maintain any action or special proceeding thereon, and shall not prevent the foreign corporation from defending any action or special proceeding in this state.

(c) Any person having a cause of action against any foreign corporation, whether or not such corporation is qualified to do business in this state, which cause of action arose in Kansas out of such corporation doing business in Kansas, or arose while such corporation was doing business in Kansas, may file suit against the corporation in the proper court of a county in which there is proper venue. Service of process in any action shall be made in the manner prescribed by K.S.A. 60-304, *and amendments thereto*.

Sec. 121. K.S.A. 17-7404 is hereby amended to read as follows: 17-7404. ~~This act~~ *Articles 60 through 74 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto*, shall be known and may be cited as the "Kansas general corporation code."

Sec. 122. K.S.A. 17-7503 is hereby amended to read as follows: 17-7503. (a) Every domestic corporation organized for profit shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the

last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms prescribed by the secretary of state. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return. The report shall contain the following information:

- (1) The name of the corporation;
- (2) the location of the principal office;
- (3) the names and addresses of the president, secretary, treasurer or equivalent of such officers and members of the board of directors;
- (4) the number of shares of capital stock issued;
- (5) the nature and kind of business in which the corporation is engaged; and
- (6) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

- (1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;
- (2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;
- (3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;
- (4) the total number of stockholders of the corporation;
- (5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;
- (6) the number of acres of agricultural land, held and reported in each category under ~~provision~~ *paragraph* (5), stated separately, being irrigated; and
- (7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(c) The report shall be executed in accordance with the provisions of K.S.A. ~~17-6003~~ 2015 Supp. 17-7908 through 17-7910, and amendments thereto. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report shall

be dated and subscribed by the person as true, under penalty of perjury. At the time of filing such annual report it shall be the duty of each domestic corporation organized for profit to pay to the secretary of state an annual report fee in an amount equal to \$40.

Sec. 123. K.S.A. 17-7504 is hereby amended to read as follows: 17-7504. (a) Every corporation organized not for profit shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms prescribed by the secretary of state. The report shall be filed on the 15th day of the sixth month following the close of the taxable year. The report shall contain the following information:

- (1) The name of the corporation;
- (2) the location of the principal office;
- (3) the names and addresses of the president, secretary and treasurer or equivalent of such officers, and the members of the governing body;
- (4) the number of memberships or the number of shares of capital stock issued; and
- (5) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

- (1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;
- (2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;
- (3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;
- (4) the total number of stockholders or members of the corporation;
- (5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;
- (6) the number of acres of agricultural land, held and reported in each category under paragraph (5) of this subsection (b), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(c) The report shall be executed in accordance with the provisions of K.S.A. ~~17-6003~~ 2015 *Supp. 17-7908 through 17-7910*, and amendments thereto. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report shall be ~~dated and~~ subscribed by the person as true, under penalty of perjury.

(d) At the time of filing such report, each nonprofit corporation shall pay an annual report fee in an amount equal to \$40 for all tax years commencing after December 31, 2003.

Sec. 124. K.S.A. 17-7505 is hereby amended to read as follows: 17-7505. (a) Every foreign corporation organized for profit, or organized under the cooperative type statutes of the state, territory or foreign country of incorporation, now or hereafter doing business in this state, and owning or using a part or all of its capital in this state, and subject to compliance with the laws relating to the admission of foreign corporations to do business in Kansas, shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation operates on a fiscal year other than the calendar year it shall give written notice thereof to the secretary of state prior to December 31 of the year commencing such fiscal year. The report shall be made on a form prescribed by the secretary of state. The report shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return. The report shall contain the following facts:

(1) The name of the corporation and under the laws of what state or country it is incorporated;

(2) the location of its principal office;

(3) the names and addresses of the president, secretary, treasurer, or equivalent of such officers, and members of the board of directors;

(4) the number of shares of capital stock issued;

(5) the nature and kind of business in which the company is engaged; and

(6) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.

(b) Every corporation subject to the provisions of this section which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5) ~~of this subsection (b)~~, stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(c) The report shall be executed in accordance with the provisions of K.S.A. ~~17-6003~~ 2015 Supp. 17-7908 through 17-7910, and amendments thereto. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation; however, the official title or position of the individual signing the report shall be designated. This report shall be ~~dated and~~ subscribed by the person as true, under penalty of perjury.

(d) At the time of filing its annual report, each such foreign corporation shall pay to the secretary of state an annual report fee in an amount equal to \$40.

Sec. 125. K.S.A. 2015 Supp. 17-7506 is hereby amended to read as follows: 17-7506. (a) The secretary of state shall charge each corporation a fee established pursuant to rules and regulations, but not exceeding \$250, for issuing or filing and indexing articles of incorporation of a for-profit or a foreign corporation application.

(b) The secretary of state shall charge each corporation a fee established by rules and regulations, but not exceeding \$50, for articles of incorporation of a nonprofit corporation.

(c) The secretary of state shall charge each corporation a fee established by rules and regulations, but not exceeding \$150, for issuing or filing and indexing any of the corporate documents described below:

(1) Certificate of extension, restoration, renewal or revival of articles of incorporation;

(2) certificate of amendment of articles of incorporation, either prior to or after payment of capital;

(3) certificate of designation of preferences;

(4) certificate of retirement of preferred stock;

- (5) certificate of increase or reduction of capital;
- (6) certificate of dissolution, either prior to or after beginning business;
- (7) certificate of revocation of voluntary dissolution;
- (8) certificate of change of location of registered office and resident agent;
- (9) agreement of merger or consolidation;
- (10) certificate of ownership and merger;
- (11) certificate of extension, restoration, renewal or revival of a certificate of authority of foreign corporation to do business in Kansas;
- (12) change of resident agent or amendment by foreign corporation;
- (13) certificate of withdrawal of foreign corporation;
- (14) certificate of correction of any of the instruments designated in this section;
- (15) reservation of corporate name;
- (16) restated articles of incorporation; ~~and~~
- (17) annual report extension; *and*
- (18) *certificate of validation.*

(d) The secretary of state shall charge each corporation a fee established pursuant to rules and regulations but not exceeding \$50 for issuing certified copies, photocopies, certificates of good standing and certificates of fact; and any other certificate or filing for which a filing or indexing fee is not prescribed by law.

(e) The secretary of state shall not charge fees for providing the following information: Name of the corporation; address of its registered office and the name of its resident agent; the amount of its authorized capital stock; the state of its incorporation; date of filing of articles of incorporation, foreign corporation application or annual report; and date of expiration.

(f) The secretary of state shall prescribe by rules and regulations any fees required by this act.

Sec. 126. K.S.A. 17-7510 is hereby amended to read as follows: 17-7510. (a) In addition to any other penalties, the failure of any domestic corporation to file the annual report in accordance with the provisions of this act or to pay the annual report fee provided for within 90 days of the time for filing and paying the same *or, in the case of an annual report filing and fee received by mail, postmarked within 90 days of the time for filing and paying the same*, shall work the forfeiture of the articles of incorporation of such domestic corporation. Within 60 days after the date such annual report and fee are due, the secretary of state, by mail, shall notify any corporation that has failed to submit such report and fee when due that its articles of incorporation shall be forfeited unless the annual report is filed and the fee is paid within 90 days from the date such report and fee were due. Any corporation that fails to submit such report and

fee within such time shall forfeit its articles of incorporation, and the secretary of state shall notify the attorney general that the articles of incorporation of such corporation have been forfeited.

(b) In addition to any other penalties, the failure of any foreign corporation to file the annual report or pay the annual report fee prescribed by this act within 90 days from the time provided for filing and paying the same or, *in the case of an annual report filing and fee received by mail, postmarked within 90 days of the time for filing and paying the same*, shall work a forfeiture of its right or authority to do business in this state. Within 60 days after the date such annual report and fee are due, the secretary of state, by mail, shall notify any corporation that has failed to submit such report and fee when due that its authority to do business in this state shall be forfeited unless the annual report and fee is paid within 90 days from the date such report and fee were due. Any corporation that fails to submit such report and fees within such time shall forfeit its authority to do business in this state, and the secretary of state shall publish a notice of such forfeiture in the Kansas register.

(c) This section shall not be construed to restrict the state from invoking any other remedies provided by law.

~~(e)~~(d) The secretary of state shall not issue certificates of good standing for any corporation that has failed to file its annual report or pay its annual report fee.

Sec. 127. K.S.A. 17-7512 is hereby amended to read as follows: 17-7512. The provisions of this act relating to the filing of annual reports and the payment of ~~franchise taxes and~~ annual report fees shall not apply to banking, insurance or savings and loan corporations, credit unions, any firemen's relief association under the jurisdiction and supervision of the insurance commissioner or to Kansas venture capital, inc. or venture capital companies certified by the secretary of commerce pursuant to article 83 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 128. K.S.A. 2015 Supp. 17-76,139 is hereby amended to read as follows: 17-76,139. (a) Every limited liability company organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

(1) The name of the limited liability company; and
(2) a list of the members owning at least 5% of the capital of the limited liability company, with the post office address of each.

(b) Every foreign limited liability company shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited liability company.

(c) The annual report required by this section shall be ~~dated~~, executed by one or more authorized persons, and filed with the secretary of state. The execution of such annual report by a person who is authorized by this act to execute such annual report, upon filing such annual report with the secretary of state, constitutes an oath or affirmation, under penalties of perjury that, to the best of such person's knowledge and belief, the facts stated therein are true. At the time of filing the report, the limited liability company shall pay to the secretary of state an annual report fee in an amount equal to \$40.

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, and the provisions of ~~subsection (a) of K.S.A. 17-7510(a)~~, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, shall be applicable to the articles of organization of any domestic limited liability company or to the authority of any foreign limited liability company which fails to file its annual report or pay the annual report fee within 90 days of the time prescribed in this section for filing and paying the same *or, in the case of an annual report filing and fee received by mail, postmarked within 90 days of the time for filing and paying the same*. Whenever the articles of organization of a domestic limited liability company or the authority of any foreign limited liability company are forfeited for failure to file an annual report or to pay the required annual report fee, the domestic limited liability company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, pursuant to K.S.A. 2015 Supp. 17-76,146, and amendments thereto, and paying to the secretary of state all fees, including any penalties thereon, due to the state.

(e) No limited liability company shall be required to file its first annual report under this act, or pay any annual report fee required to accompany such report, unless such limited liability company has filed its

articles of organization or application for authority at least six months prior to the last day of its tax period.

(f) All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234, and amendments thereto, a proper judicial order, or subsection (g). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.

(g) A copy of such application shall be open to inspection by or disclosure to any person who was a member of such limited liability company during any part of the period covered by the extension.

Sec. 129. K.S.A. 2015 Supp. 17-7903 is hereby amended to read as follows: 17-7903. ~~(a)~~ The following documents related to corporations shall be filed with the secretary of state:

- ~~(A)~~ (a) For-profit filings:
 - ~~(A)~~ (1) For-profit articles of incorporation as set forth in K.S.A. 17-6002, and amendments thereto;
 - ~~(B)~~ (2) professional association articles of incorporation as set forth in K.S.A. 17-2709, 17-2711 and 17-6002, and amendments thereto;
 - ~~(C)~~ (3) close corporation articles of incorporation as set forth in K.S.A. 17-6426, 17-7201, 17-7202 and 17-7203, and amendments thereto;
 - (4) *certificate of validation as set forth in section 8, and amendments thereto;*
 - ~~(D)~~ (5) foreign for-profit application for authority as set forth in K.S.A. 2015 Supp. 17-7931 and K.S.A. 17-7307 through 17-7510, and amendments thereto;
 - ~~(E)~~ (6) for-profit annual report as set forth in K.S.A. 17-7503 and 17-7505, and amendments thereto;
 - ~~(F)~~ (7) professional association annual report as set forth in K.S.A. 17-2718, and amendments thereto;
 - ~~(G)~~ (8) for-profit certificate of amendment as set forth in K.S.A. 17-6003, 17-6401, 17-6601, 17-6602 and 17-6603, and amendments thereto;
 - ~~(H)~~ (9) amendment to professional associations as set forth in K.S.A. 17-2709, and amendments thereto;
 - ~~(I)~~ (10) foreign for-profit corporation certificate of amendment as set forth in K.S.A. 17-7302, and amendments thereto;
 - ~~(J)~~ (11) restated articles of incorporation as set forth in K.S.A. 17-6605, and amendments thereto;
 - ~~(K)~~ (12) change of registered office or resident agent as set forth in sections K.S.A. 2015 Supp. 17-7926, 17-7927, 17-7928 and 17-7929, and amendments thereto;

~~(L)~~ (13) for-profit certificate of correction as set forth in K.S.A. 2015 Supp. 17-7912, and amendments thereto;

~~(M)~~ (14) mergers as set forth in K.S.A. 17-6701 through 17-6708, and amendments thereto;

~~(N)~~ (15) foreign mergers as set forth in K.S.A. 17-7302, and amendments thereto;

~~(O)~~ (16) certificate of amendment or termination of merger as set forth in K.S.A. 17-6701, and amendments thereto;

~~(P)~~ (17) foreign corporation merger as set forth in K.S.A. 17-7302, and amendments thereto;

~~(Q)~~ (18) certificate of reinstatement as set forth in K.S.A. 17-7002, and amendments thereto;

~~(R)~~ (19) certificate of dissolution prior to commencing business as set forth in K.S.A. 17-6803, and amendments thereto;

~~(S)~~ (20) certificate of dissolution by stockholder's meeting as set forth in K.S.A. 17-6804, and amendments thereto;

~~(T)~~ (21) certificate of dissolution by written consent as set forth in K.S.A. 17-6804, and amendments thereto;

~~(U)~~ (22) foreign certificate of cancellation as set forth in K.S.A. 2015 Supp. 17-7936, and amendments thereto; and

~~(V)~~ (23) certificate of revocation of dissolution as set forth in K.S.A. 17-7001, and amendments thereto.

~~(W)~~ (b) Not-for-profit filings:

~~(A)~~ (1) Not-for-profit articles of incorporation as set forth in K.S.A. 17-6002, and amendments thereto;

~~(B)~~ (2) foreign not-for-profit application for authority as set forth in K.S.A. 2015 Supp. 17-7931, and amendments thereto;

~~(C)~~ (3) not-for-profit annual report as set forth in K.S.A. 17-7504, and amendments thereto;

~~(D)~~ (4) not-for-profit certificate of amendment as set forth in K.S.A. 17-6602, and amendments thereto;

~~(E)~~ (5) not-for-profit certificate of correction as set forth in K.S.A. 2015 Supp. 17-7912, and amendments thereto;

~~(F)~~ (6) not-for-profit change of registered office or resident agent as set forth in K.S.A. 2015 Supp. 17-7926, 17-7927, 17-7928 and 17-7929, and amendments thereto;

~~(G)~~ (7) not-for-profit certificate of reinstatement as set forth in K.S.A. 17-7002, and amendments thereto; and

~~(H)~~ (8) certificate of dissolution as set forth in K.S.A. 17-6803, 17-6804 and 17-6805, and amendments thereto.

~~(b) This section shall take effect on and after January 1, 2015.~~

Sec. 130. K.S.A. 2015 Supp. 17-7908 is hereby amended to read as follows: 17-7908. All documents required by this act to be filed with the secretary of state shall be executed as follows:

(a) Documents related to corporations shall be executed in the following manner:

(1) The articles of incorporation for all corporations ~~shall be signed by the incorporator or incorporators~~, and any other document to be filed before the election of the initial board of directors, if the initial directors were not named in the articles of incorporation, shall be signed by the incorporator or incorporators *or, in the case of any such other document, such incorporator's or incorporators' successors and assigns*. If any incorporator is not available ~~by reason of death, incapacity or refusal or neglect to act~~, then ~~the~~ *any such other document* may be signed, *with the same effect as if such incorporator had signed it*, by any person for whom or on whose behalf such incorporator, *in executing the articles of incorporation*, was acting *directly or indirectly* as an employee or agent: ~~The~~, *except that such other document shall state that the such incorporator is not available and the reason therefore, that such incorporator in executing the articles of incorporation was acting directly or indirectly as an employee or agent for or on behalf of such person and that such person's signature on such instrument is otherwise authorized and not wrongful*.

(2) All documents related to a corporation that are not addressed by subsection (a)(1), shall be signed: (A) By any authorized officer of the corporation; (B) if it appears from the document that there are no such officers, by a majority of the directors or by such directors as may be designated by the board; (C) if it appears from the document that there are no such officers or directors, by the holders of record, or such of them as may be designated by the holders of record, of a majority of all outstanding shares of stock; or (D) by the holders of record of all outstanding shares of stock.

(b) Documents related to limited liability companies shall be executed in the following manner: All documents shall be signed by one or more authorized persons. Unless otherwise provided in an operating agreement, any person may sign the articles, any certificate, any amendment thereof, or enter into an operating agreement or amendment thereof by an agent.

(c) Documents related to limited partnerships shall be executed in the following manner:

(1) An initial certificate of limited partnership must be signed by all general partners;

(2) a certificate of amendment must be signed by at least one general partner and by each other general partner who is designated in the certificate of amendment as a new general partner; and

(3) a certificate of cancellation must be signed by all general partners or, if there is no general partner, by a majority of the limited partners.

(d) Documents related to limited liability partnerships shall be executed by an authorized person.

~~(e) This section shall take effect on and after January 1, 2015.~~

Sec. 131. K.S.A. 2015 Supp. 17-7918 is hereby amended to read as follows: 17-7918. (a) Except as otherwise provided in subsection (b), the names of all covered entities, *except for banks, savings and loan associations and savings banks*, must be distinguishable on the records of the office of the secretary of state from:

- (1) The name of any other covered entity or foreign covered entity;
- (2) the name of any non-covered entity, other than a general partnership, that has filed with the office of the secretary of state;
- (3) any entity name reserved pursuant to K.S.A. 2015 Supp. 17-7923, and amendments thereto; and
- (4) the name of any other covered entity or foreign covered entity whose public organic documents or foreign registration has been canceled or forfeited for any reason within the previous one year.

(b) A covered entity may register under any name that is not distinguishable on the records of the office of the secretary of state from the name of any other covered entity or non-covered entity that has filed with the office of the secretary of state with the written consent of the other entity, which written consent shall be filed with the secretary of state.

(c) A covered entity may use a name that is not distinguishable from a name described in subsection (a)(1) through (3) if the entity delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the right of the entity to use the name in this state.

Sec. 132. K.S.A. 2015 Supp. 17-7919 is hereby amended to read as follows: 17-7919. The name of a corporation, *except for banks, savings and loan associations and savings banks*, shall contain:

(a) One of the following words: “Association”; “church”; “college”; “company”; “corporation”; “club”; “foundation”; “fund”; “incorporated”; “institute”; “society”; “union”; “university”; “syndicate” or “limited”;

(b) one of the following abbreviations: “Co.”; “corp.”; “inc.” or “ltd.”; or

(c) words or abbreviations of like import in other languages if they are written in Roman characters or letters.

~~(d) This section shall take effect on and after January 1, 2015.~~

Sec. 133. K.S.A. 2015 Supp. 17-7924 is hereby amended to read as follows: 17-7924. (a) Every covered entity shall have and maintain in this state a registered office which may, but need not be, the same as its place of business.

(b) ~~Unless the context otherwise requires,~~ Whenever the term “principal office or place of business in this state” or “principal office or place of business of the (applicable covered entity) in this state,” or other term of like import, is or has been used in the covered entity’s public organic documents, or in any other document or in any statute other than the

Kansas uniform commercial code, *unless the context indicates otherwise*, it shall be deemed to mean and refer to the covered entity's registered office required by this section, and it shall not be necessary for any covered entity to amend its public organic documents or any other document to comply with this section.

~~(c) This section shall take effect on and after January 1, 2015. As contained in any covered entity's organic documents or other document filed with the secretary of state under the business entity standard treatment act, the address of a registered office shall include the street, number, city and postal code.~~

Sec. 134. K.S.A. 2015 Supp. 17-7925 is hereby amended to read as follows: 17-7925.(a) Every covered entity shall have and maintain in this state a resident agent, which agent may be either:

- (1) The covered entity itself;
- (2) an individual resident in this state;
- (3) a domestic corporation, a domestic limited partnership, *a domestic limited liability partnership*, a domestic limited liability company or a domestic business trust; or
- (4) a foreign corporation, a foreign limited partnership, *a foreign limited liability partnership*, a foreign limited liability company or a foreign business trust ~~authorized to transact business in this state.~~

(b) *Every resident agent for a covered entity shall:*

~~(1) The resident agent shall have~~ *If a domestic entity, maintain a business office identical with the registered office which is generally open during normal business hours, or if an individual, be generally present at a designated location in this state at sufficiently frequent times to accept service of process and otherwise perform the functions of a resident agent;*

(2) if a foreign entity, be authorized to transact business in this state;

(3) accept service of process and other communications directed to the covered entity for which it serves as resident agent and forward the same to the covered entity to which the service or communication is directed; and

(4) forward to the covered entity for which it serves as a resident agent documents sent by the secretary of state.

(c) Unless the context otherwise requires, whenever the term "resident agent" or "registered agent" or "resident agent in charge of a (applicable covered entity's) principal office or place of business in this state," or other term of like import which refers to a covered entity's agent required by statute to be located in this state, is or has been used in a covered entity's public organic documents, or in any other document, or in any statute, it shall be deemed to mean and refer to the covered entity's resident agent required by this section, and it shall not be necessary for

any covered entity to amend its public organic documents, or any other document, to comply with this section.

~~(d) This section shall take effect on and after January 1, 2015.~~

Sec. 135. K.S.A. 2015 Supp. 17-7927 is hereby amended to read as follows: 17-7927.(a) A resident agent may change the address of the registered office of any covered entities for which such agent is resident agent to another address in this state by paying a fee if authorized by law, as provided by K.S.A. 2015 Supp. 17-7910, and amendments thereto, and filing with the secretary of state a certificate, executed by such resident agent, setting forth the names of all the covered entities represented by such resident agent, and the address at which such resident agent has maintained the registered office for each of such covered entities, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such resident agent will thereafter maintain the registered office for each of the covered entities recited in the certificate. ~~Upon the filing of such certificate, the secretary of state shall furnish to the resident agent a certified copy of the certificate, and~~ Thereafter, or until further change of address, as authorized by law, the registered office in this state of each of the covered entities ~~recited in the certificate~~ *for which it is a resident agent* shall be located at the new address of the resident agent thereof as given in the certificate.

(b) Whenever the location of a resident agent's office is moved to another room or suite within the same structure and such change is reported in writing to the secretary of state, no fee shall be charged for recording such change on the appropriate records on file with the secretary of state.

(c) In the event of a change of name of any person *or entity* acting as resident agent in this state, such resident agent shall pay a fee if authorized by law, as provided by K.S.A. 2015 Supp. 17-7910, and amendments thereto, and file with the secretary of state a certificate, executed by such resident agent, setting forth the new name of such resident agent, the name of such resident agent before it was changed, the names of all the covered entities represented by such resident agent, and the address at which such resident agent has maintained the registered office for each of such covered entities. *A change of name of any person or entity acting as a resident agent as a result of a merger or consolidation of the resident agent, with or into another entity which succeeds to its assets by operation of law, shall be deemed a change of name for purposes of this section.*

(d) In the event of both a change of name of any person *or entity* acting as resident agent for any covered entity and a change of address, such resident agent shall pay a fee if authorized by law, as provided by K.S.A. 2015 Supp. 17-7910, and amendments thereto, and file with the secretary of state a certificate, executed by such resident agent, setting

forth the new name of such resident agent, the name of such resident agent before it was changed, the names of all the covered entities represented by such resident agent and the address at which such resident agent has maintained the registered office for each such covered entity, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such resident agent will thereafter maintain the registered office for each of the covered entities recited in the certificate. Upon the filing of such certificate, and thereafter, or until further change of address or change of name, as authorized by law, the registered office in this state of each of the covered entities recited in the certificate shall be located at the new address of the resident agent as given in the certificate and the change of name shall be effective.

~~(e) This section shall take effect on and after January 1, 2015.~~

Sec. 136. K.S.A. 2015 Supp. 17-7928 is hereby amended to read as follows: 17-7928. (a) The resident agent of one or more covered entities may resign and appoint a successor resident agent by paying a fee if authorized by law, as provided by K.S.A. 2015 Supp. 17-7910, and amendments thereto, and filing a certificate with the secretary of state, stating that the resident agent resigns and the name and address of the successor agent *in accordance with K.S.A. 2015 Supp. 17-7924, and amendments thereto*. There shall be attached to such certificate a statement executed by each affected covered entity ratifying and approving such change of resident agent. Upon such filing, the successor resident agent shall become the resident agent of such covered entities as have ratified and approved such substitution and the successor resident agent's address, as stated in such certificate, shall become the address of each such covered entity's registered office in this state.

(b) Any covered entity affected by the filing of a certificate under this section shall not be required to take any further action to amend its public organic documents to reflect a change of registered office or resident agent.

~~(c) This section shall take effect on and after January 1, 2015.~~

Sec. 137. K.S.A. 2015 Supp. 17-7929 is hereby amended to read as follows: 17-7929. (a) The resident agent of one or more covered entities may resign without appointing a successor by paying a fee if authorized by law, as provided by K.S.A. 2015 Supp. 17-7910, and amendments thereto, and filing a certificate *of resignation*, with the secretary of state stating that the resident agent resigns as resident agent for the covered entities identified in the certificate, but such resignation shall not become effective until ~~60~~ 30 days after the certificate is filed. ~~There shall be attached to such certificate an affidavit of such resident agent, if an individual, or of an authorized governor, if an entity, that at least 30 days prior to the filing of such certificate, due notice was sent by certified or~~

~~registered mail to the covered entities for which such resident agent is resigning as resident agent, at the principal office thereof within or outside the state of Kansas, if known to such resident agent, or if not so known, to the last known address of the individual at whose request such resident agent was appointed for such entity, of the resignation of such resident agent.~~ *The certificate shall be executed by the resident agent, shall contain a statement that written notice of resignation was given to each affected covered entity at least 30 days prior to the filing of the certificate by mailing or delivering such notice to the covered entity at its address last known to the resident agent and shall set forth the date of such notice.*

(b) After receipt of the notice of the resignation of its resident agent, provided for in subsection (a), any covered entity for which such resident agent was acting shall obtain and designate a new resident agent to ~~succeed~~ ~~take the place of~~ the resident agent so resigning. Such covered entity shall pay a fee if authorized by law, as provided by K.S.A. 2015 Supp. 17-7910, and amendments thereto, and file with the secretary of state a certificate setting forth the name and address of the successor resident agent. Upon such filing, the successor resident agent shall become the resident agent of such covered entity and the successor resident agent's address, as stated in such certificate, shall become the address of the covered entity's registered office in this state. If *such covered entity fails to obtain and designate a new resident agent as aforesaid*, prior to the expiration of the period of 60 days after the filing by the resident agent of the certificate of resignation, ~~such covered entity fails to obtain and designate a new resident agent, as required by this subsection~~, the secretary of state ~~may~~ shall declare the entity's organizing documents forfeited ~~or, in the case of a foreign entity, the secretary may declare the foreign entity's authority to do business in this state forfeited.~~

(c) After the resignation of the resident agent shall have become effective, as provided in subsection (a), and if no new resident agent shall have been obtained and designated in the time and manner provided for in subsection (b), service of legal process against the covered entity for which the resigned resident agent had been acting shall thereafter be upon the secretary of state in the manner prescribed by K.S.A. 60-304, and amendments thereto.

(d) Any covered entity affected by the filing of a certificate under this section shall not be required to take any further action to amend its public organic documents to reflect a change of registered office or resident agent.

~~(e) This section shall take effect on and after January 1, 2015.~~

Sec. 138. K.S.A. 2015 Supp. 17-7931 is hereby amended to read as follows: 17-7931. Before doing business in the state of Kansas, a foreign covered entity shall register with the secretary of state. In order to register, a foreign covered entity shall submit to the secretary of state, to-

gether with payment of a fee if authorized by law, as provided by K.S.A. 2015 Supp. 17-7910, and amendments thereto, an original copy executed by a governor, of an application for registration as a foreign covered entity, setting forth:

(a) The name of the foreign covered entity;
 (b) ~~the state or other jurisdiction or country~~ where organized;
 (c) the date of its organization;
 (d) a statement issued within 90 days of the date of application by the proper officer of the jurisdiction where such foreign entity is organized, or by a third-party agent authorized by such proper officer, that the foreign covered entity exists in good standing under the laws of the jurisdiction of its organization;

(e) the nature of the business or purposes to be conducted or promoted in the state of Kansas, including whether the covered entity operates for-profit or not-for-profit;

(f) the address of the registered office and the name and address of the resident agent for service of process required to be maintained by this act;

(g) an irrevocable written consent of the foreign covered entity that actions may be commenced against it in the proper court of any county where there is proper venue by the service of process on the secretary of state as provided for in K.S.A. 60-304, and amendments thereto, and stipulating and agreeing that such service shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon the governors of the foreign covered entity; *and*

~~(h) the name and business, residence or mailing address of each of the governors, and~~

(i) the date on which the foreign covered entity first did, or intends to do, business in the state of Kansas.

Sec. 139. K.S.A. 2015 Supp. 17-7934 is hereby amended to read as follows: 17-7934. ~~(a) Each foreign covered entity shall have and maintain in the state of Kansas:~~

~~(1) A registered office which may, but need not, be its place of business in the state of Kansas; and~~

~~(2) a resident agent for service of process on the covered entity, which agent may be the foreign covered entity itself, an individual resident of the state of Kansas, a domestic corporation, a domestic limited partnership, a domestic limited liability company, a domestic business trust, or a foreign corporation, foreign limited partnership, foreign limited liability company or foreign business trust authorized to do business in the state of Kansas whose business office is identical with the covered entity's registered office~~ *Every foreign covered entity shall have and maintain in this state a registered office and a resident agent in the same manner as pre-*

scribed by K.S.A. 2015 Supp. 17-7924 and 17-7925, and amendments thereto.

(b) A resident agent may change the address of the registered office of the foreign covered entity for which the resident agent is resident agent to another address in the state of Kansas by:

~~(1) Paying a fee if authorized by law, as provided by K.S.A. 2015 Supp. 17-7910, and amendments thereto;~~

~~(2) filing with the secretary of state a certificate executed by the resident agent, setting forth the names of all the foreign covered entities represented by the resident agent and the address at which the resident agent has maintained the registered office for each of such foreign covered entity, and~~

~~(3) certifying to the new address to which each such registered office will be changed on a given day and at which the resident agent will thereafter maintain the registered office for each of the foreign covered entities recited in the certificate. Upon the filing of the certificate, the secretary of state shall furnish to the resident agent a certified copy of such certificate. Thereafter, or until further change of address, as authorized by law, the registered office in the state of Kansas of each of the foreign covered entities recited in the certificate shall be located at the new address of the resident agent of the entity given in the certificate. Filing of the certificate shall be considered an amendment of the application of each foreign covered entity affected by the certificate, and the foreign covered entity shall not be required to take any further action with respect thereto, to amend its application. Any resident agent filing a certificate under this section, upon such filing, shall deliver promptly a copy of such certificate to each foreign covered entity affected thereby Any foreign covered entity that has qualified to do business in this state may change its registered office or resident agent in the manner prescribed in K.S.A. 2015 Supp. 17-7926, and amendments thereto.~~

(c) In the event of a change of name of any person acting as resident agent for a foreign covered entity in this state, such resident agent shall pay a fee if authorized by law, as provided by K.S.A. 2015 Supp. 17-7910, and amendments thereto, and file with the secretary of state a certificate, executed by such resident agent, setting forth the new name of such resident agent, the name of such resident agent before it was changed, the names of all the foreign covered entities represented by such resident agent, and the address at which such resident agent has maintained the registered office for each of such foreign covered entities *Any resident agent may change the address of the foreign covered entity's registered office in the manner prescribed by K.S.A. 2015 Supp. 17-7927, and amendments thereto.*

(d) In the event of both a change of name of any person acting as resident agent for any foreign covered entity and a change of address, such resident agent shall pay a fee if authorized by law, as provided by

K.S.A. 2015 Supp. 17-7910, and amendments thereto, and file with the secretary of state a certificate, executed by such resident agent, setting forth the new name of such resident agent, the name of such resident agent before it was changed, the names of all the foreign covered entities represented by such resident agent and the address at which such resident agent has maintained the registered office for each such foreign covered entity, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such resident agent will thereafter maintain the registered office for each of the foreign covered entities recited in the certificate. Upon the filing of such certificate, and thereafter, or until further change of address or change of name, as authorized by law, the registered office in this state of each of the foreign covered entities recited in the certificate shall be located at the new address of the resident agent as given in the certificate and the change of name shall be effective. *Any resident agent designated by a foreign covered entity as its resident agent for service of process may resign pursuant to the provisions of K.S.A. 2015 Supp. 17-7928 or 17-7929, and amendments thereto.*

(e) ~~The resident agent of one or more foreign covered entities may resign and appoint a successor resident agent by paying a fee if authorized by law, as provided by K.S.A. 2015 Supp. 17-7910, and amendments thereto, and filing a certificate with the secretary of state, stating that the resident agent resigns as resident agent for the foreign covered entity identified in the certificate and giving the name and address of the successor resident agent. There shall be attached to the certificate a statement executed by each affected foreign covered entity ratifying and approving the change of resident agent. Upon the filing, the successor resident agent shall become the resident agent of those foreign covered entities that have ratified and approved the substitution and the successor resident agent's address, as stated in the certificate, shall become the address of each such foreign covered entities' registered office in the state of Kansas. Filing of the certificate of resignation shall be deemed to be an amendment of the application of each foreign covered entity affected by the certificate, and the foreign covered entity shall not be required to take any further action with respect thereto, to amend its application.~~

(f) ~~The resident agent of one or more foreign covered entities may resign without appointing a successor resident agent by paying a fee if authorized by law, as provided by K.S.A. 2015 Supp. 17-7910, and amendments thereto, and filing a certificate with the secretary of state stating that the resident agent resigns as resident agent for the foreign covered entities identified in the certificate, but the resignation shall not become effective until 60 days after the certificate is filed. There shall be attached to the certificate an affidavit that, at least 30 days prior to the date of the filing of the certificate, notice of the resignation of the resident agent was sent by certified or registered mail to each foreign covered entity for~~

~~which the resident agent is resigning as resident agent. The affidavit shall state that the notice was sent to the principal office of each of the foreign covered entities within or outside the state of Kansas, if known to the resident agent or, if not, to the last known address of the individual at whose request the resident agent was appointed for the foreign covered entity. After receipt of the notice of the resignation of its resident agent, the foreign covered entity for which the resident agent was acting shall obtain and designate a new resident agent, to take the place of the resident agent resigning. If a foreign covered entity fails to obtain and designate a new resident agent within 60 days after the filing by the resident agent of the certificate of resignation, that foreign covered entity shall not be permitted to do business in the state of Kansas and its registration shall be considered forfeited.~~

Sec. 140. K.S.A. 2015 Supp. 56-1a606 is hereby amended to read as follows: 56-1a606. (a) Every limited partnership organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

(1) The name of the limited partnership; and

(2) a list of the partners owning at least 5% of the capital of the partnership, with the address of each.

(c) Every limited partnership subject to the provisions of this section which is a limited agricultural partnership, as defined in K.S.A. 17-5903, and amendments thereto, and which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and location, listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.

(d) The annual report shall be ~~dated~~, signed by the general partner or partners of the limited partnership under penalty of perjury and forwarded to the secretary of state. At the time of filing the report, the limited partnership shall pay to the secretary of state an annual report fee in an amount equal to \$40.

(e) The provisions of K.S.A. 17-7509, and amendments thereto, re-

lating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, and the provisions of ~~subsection (a) of~~ K.S.A. 17-7510(a), and amendments thereto, relating to forfeiture of a domestic corporation's articles of incorporation for failure to file an annual report or pay the required annual report fee, shall be applicable to the certificate of partnership of any limited partnership which fails to file its annual report or pay the annual report fee within 90 days of the time prescribed in this section for filing and paying the same *or, in the case of an annual report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same.* Whenever the certificate of partnership of a limited partnership is forfeited for failure to file an annual report or to pay the required annual report fee, the limited partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 141. K.S.A. 2015 Supp. 56-1a607 is hereby amended to read as follows: 56-1a607. (a) Every foreign limited partnership shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited partnership.

(c) Every foreign limited partnership subject to the provisions of this section which is a limited agricultural partnership, as defined in K.S.A. 17-5903, and amendments thereto, and which holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and location, listed by section, range, township and county of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.

(d) The annual report shall be ~~dated~~, signed by the general partner or partners of the limited partnership under penalty of perjury and for-

warded to the secretary of state. At the time of filing the report, the foreign limited partnership shall pay to the secretary of state an annual report fee in an amount equal to \$40.

(e) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, and the provisions of ~~subsection (b) of~~ K.S.A. 17-7510(b), and amendments thereto, relating to forfeiture of a foreign corporation's authority to do business in this state for failure to file an annual report or pay the required annual report fee, shall be applicable to the authority of any foreign limited partnership which fails to file its annual report or pay the annual report fee within 90 days of the time prescribed in this section for filing and paying the same *or, in the case of an annual report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same.* Whenever the authority of a foreign limited partnership to do business in this state is forfeited for failure to file an annual report or to pay the required annual report fee, the foreign limited partnership's authority to do business in this state may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 142. K.S.A. 2015 Supp. 56a-1201 is hereby amended to read as follows: 56a-1201. (a) Every limited liability partnership organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability partnership's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability partnership's annual Kansas income tax return.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

- (1) The name of the limited liability partnership; and
- (2) a list of the partners owning at least 5% of the capital of the partnership, with the address of each.

(c) The annual report shall be ~~dated~~, signed by a partner of the limited liability partnership under penalty of perjury and forwarded to the secretary of state. At the time of filing the report, the limited liability

partnership shall pay to the secretary of state an annual report fee in an amount equal to \$40.

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, and the provisions of ~~subsection (a) of K.S.A. 17-7510(a)~~, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, shall be applicable to the statement of qualification of any limited liability partnership which fails to file its annual report or pay the annual report fee within 90 days of the time prescribed in this section for filing and paying the same *or, in the case of an annual report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same.* Whenever the statement of qualification of a limited liability partnership is forfeited for failure to file an annual report or to pay the required annual report fee, the limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 143. K.S.A. 2015 Supp. 56a-1202 is hereby amended to read as follows: 56a-1202. (a) Every foreign limited liability partnership shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the foreign limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the foreign limited liability partnership's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the foreign limited liability partnership's annual Kansas income tax return.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the foreign limited liability partnership.

(c) The annual report shall be ~~dated~~, signed by a partner of the foreign limited liability partnership under penalty of perjury and forwarded to the secretary of state. At the time of filing the report, the foreign limited liability partnership shall pay to the secretary of state an annual report fee in an amount equal to \$40.

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, and the provisions of ~~subsection (a)~~

of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, shall be applicable to the statement of foreign qualification of any foreign limited liability partnership which fails to file its annual report or pay the annual report fee within 90 days of the time prescribed in this section for filing and paying the same *or, in the case of an annual report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same.* Whenever the statement of foreign qualification of a foreign limited liability partnership is forfeited for failure to file an annual report or to pay the required annual report fee, the statement of foreign qualification of the foreign limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 144. K.S.A. 17-1289, 17-12,100, 17-12,101, 17-12,102, 17-12,103, 17-12,104, 17-2036, 17-2718, 17-4634, 17-6001, 17-6004, 17-6006, 17-6007, 17-6008, 17-6009, 17-6010, 17-6101, 17-6102, 17-6104, 17-6106, 17-6301, 17-6302, 17-6304, 17-6401, 17-6402, 17-6404, 17-6405, 17-6407, 17-6408, 17-6409, 17-6410, 17-6412, 17-6413, 17-6414, 17-6415, 17-6416, 17-6420, 17-6422, 17-6425, 17-6426, 17-6501, 17-6502, 17-6503, 17-6505, 17-6506, 17-6508, 17-6509, 17-6510, 17-6512, 17-6513, 17-6514, 17-6515, 17-6516, 17-6517, 17-6518, 17-6521, 17-6522, 17-6523, 17-6603, 17-6605, 17-6701, 17-6702, 17-6703, 17-6704, 17-6705, 17-6706, 17-6707, 17-6708, 17-6710, 17-6712, 17-6801, 17-6803, 17-6804, 17-6805, 17-6805a, 17-6807, 17-6808, 17-6809, 17-6810, 17-6811, 17-6812, 17-6813, 17-6902, 17-6903, 17-6904, 17-6905, 17-6906, 17-6907, 17-6908, 17-6909, 17-6910, 17-6911, 17-6913, 17-7001, 17-7003, 17-7101, 17-7102, 17-7201, 17-7203, 17-7204, 17-7205, 17-7206, 17-7208, 17-7209, 17-7211, 17-7212, 17-7213, 17-7215, 17-7302, 17-7305, 17-7307, 17-7404, 17-7503, 17-7504, 17-7505, 17-7510 and 17-7512 and K.S.A. 2015 Supp. 17-6002, 17-6305, 17-6601, 17-6602, 17-7002, 17-7207, 17-7506, 17-76,139, 17-7903, 17-7908, 17-7918, 17-7919, 17-7924, 17-7925, 17-7927, 17-7928, 17-7929, 17-7931, 17-7934, 56-1a606, 56-1a607, 56a-1201 and 56a-1202 are hereby repealed.

Sec. 145. This act shall take effect and be in force from and after its publication in the statute book.

CHAPTER 111

House Substitute for SENATE BILL No. 249
(Amends Chapter 12)

TO	SEC.	TO	SEC.
Adjutant general	29, 30	Highway patrol, Kansas	31
Administration, department of	11, 12, 13	Kansas state university	25
Aging and disability services, Kansas department for	19, 20, 21	Legislative coordinating council	9
Agriculture, department of	34	Lottery, Kansas	15
Children and families, Kansas department for	22, 23	Revenue, department of	14
Commerce, department of	16	Secretary of state	10
Corrections, department of	27, 28	Transportation, department of	36
Education, department of	24	Veterinary examiners, state board of	8
Emergency medical services board	32, 33	Wichita state university	26
Health and environment, department of— division of health care finance	17, 18	Wildlife, parks and tourism, Kansas department of	35

AN ACT making and concerning appropriations for fiscal years ending June 30, 2016, June 30, 2017, and June 30, 2018, for state agencies; authorizing and directing payment of certain claims against the state; 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. 2015 Supp. 74-4914d, as amended by section 106 of House Substitute for Senate Bill No. 161, 74-4920, as amended by section 107 of 2016 House Substitute for Senate Bill No. 161, and 74-99b34, as amended by section 109 of 2016 House Substitute for Senate Bill No. 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 be known and may be cited as the omnibus appropriation act of 2016 and shall constitute the omnibus reconciliation spending limit bill for the 2016 regular session of the legislature for purposes 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. (a) The department of corrections is hereby authorized and directed to pay the following amount from the operating expenditures account of the state general fund for a refund of supervision fees to the following claimant:

Scott Davis

767 S Drury Lane

Wichita KS 67207..... \$50.00

(b) The department of corrections is hereby authorized and directed to pay the following amounts from the Lansing correctional facility — facilities operations account of the state general fund for property lost to the following claimants:

Randy Pioletti # 39725

P. O. Box 2

Lansing, KS 66043..... \$233.21

James E. Tackett # 59193

P. O. Box 2

Lansing, KS 66043..... \$30.00

Jose Morales # 71954

P. O. Box 2

Lansing, KS 66043..... \$50.28

Michael D. Wilkins # 108849

P. O. Box 2

Lansing, KS 66043..... \$105.33

(c) The department of corrections is hereby authorized and directed to pay the following amounts from the Hutchinson correctional facility — facilities operations account of the state general fund for property lost to the following claimants:

Charles Denmark Wagner # 93947

P. O. Box 1568

Hutchinson, KS 67504 \$20.00

Davett Smith II # 784535

P. O. Box 1568

Hutchinson, KS 67504 \$199.35

Tyron James # 77522

P. O. Box 311

El Dorado, KS 67042..... \$17.69

Andrew Zeiner # 72623

P. O. Box 2

Lansing, KS 66043..... \$41.56

(d) The department of corrections is hereby authorized and directed to pay the following amounts from the El Dorado correctional facility — facilities operations account of the state general fund for property lost to the following claimants:

Vernon J. Amos # 55009

P. O. Box 311

El Dorado, KS 67042..... \$5.17

Raymond D. Boothe # 79444
P. O. Box 311

El Dorado, KS 67042..... \$4.00

(e) The department of corrections is hereby authorized and directed to pay the following amount from the correctional industries fund of the state general fund for incorrect invoicing to the following claimant:

Landers Segal Color Co. Inc. DBA Lansco Colors
1 Blue Hill Plaza, P. O. Box 1685

Pearl River, NY 10965 \$6,506.21

Sec. 3. The department for aging and disability services is hereby authorized and directed to pay the following amount from the Larned state hospital — operating expenditures account of the state general fund for property lost to the following claimant:

Donald W. Rhyne
2601 Gabriel Avenue

Parsons, KS 67357..... \$636.23

Sec. 4. The adjutant general is hereby authorized and directed to pay the following amount from the operating expenditures account of the state general fund for a settlement agreement to the following claimant:

Michaela Isch
219 Park St.

Winfield, KS 67156 \$4,000.00

Sec. 5. There is hereby appropriated from the state general fund, as reimbursements for legal costs incurred for sexually violent predator proceedings, the following amounts to the following claimants:

County Treasurer
McPherson County

117 N Maple McPherson, KS 67460 \$37,400.79

County Treasurer
Butler County

205 W Central
El Dorado, KS 67042..... \$24,017.43

Sec. 6. The department of revenue is hereby authorized and directed to pay the following amounts from the motor-vehicle fuel tax refund fund, for claims not filed within the statutory filing period prescribed in K.S.A. 79-3458, and amendments thereto, to the following claimants:

Bell, Kenneth
1979 N 300 Rd.

Wellsville, KS 66092 \$51.00

Canaan Well Service Inc.
1401 N Park

Wellington, KS 67152 \$758.39

Dustrol Inc. P.O. Box 309 Towanda, KS 67144.....	\$138.02
Garten Bros Inc. 2305 Fair Rd. Abilene, KS 67410.....	\$280.80
Golf Club of Kansas P.O. Box 6984 Lees Summit, MO 64064	\$702.22
Hasenkamp, Dan 375 F Road Centralia, KS 66415.....	\$481.68
Horgan, Timothy P. 15700 Trowbridge Rd. Wheaton, KS 66521.....	\$37.08
Katy Parsons Golf Club P.O. Box 376 Parsons, KS 67357.....	\$33.00
Moxley, Tom J. 1852 S 200 Rd. Council Grove, KS 66846	\$162.00
Pennys Concrete Inc. 23400 W 82nd St. Shawnee Mission, KS 66227	\$6,073.70
Red Bee Ranch 953 S Greenwich Rd. Wichita, KS 67207.....	\$104.28
Strobel, John R. 31464 N Hwy. 59 Garnett, KS 66032.....	\$366.34
USD 282 Howard P.O. Box 607 Howard, KS 67349	\$4,188.94
USD 247 Cherokee 506 S Smelter Cherokee, KS 40652.....	\$9,177.71
Vestring, Louis 9872 NE Stony Creek Rd. Cassoday, KS 66842.....	\$282.96
White, John T. P.O. Box 114 Allen, KS 66833	\$105.72

Sec. 7. (a) Except as otherwise provided in sections 2 through 6 of this act, the director of accounts and reports is hereby authorized and directed to draw warrants on the state treasurer in favor of the claimants specified in sections 2 through 6 of this act, upon vouchers duly executed by the state agencies directed to pay the amounts specified in such sections to the claimants or their legal representatives or duly authorized agents, as provided by law.

(b) The director of accounts and reports shall secure prior to the payment of any amount to any claimant, other than amounts authorized to be paid pursuant to section 6 of this act, as motor-vehicle fuel tax refunds or as transactions between state agencies as provided in sections 2 through 6 of this act, a written release and satisfaction of all claims and rights against the state of Kansas and any agencies, officers and employees of the state of Kansas regarding their respective claims.

Sec. 8.

STATE BOARD OF VETERINARY EXAMINERS

(a) On July 1, 2016, the director of accounts and reports shall transfer all moneys in the veterinary examiners fee fund of the Kansas department of agriculture to the veterinary examiners fee fund of the state board of veterinary examiners. On July 1, 2016, all liabilities of the veterinary examiners fee fund of the Kansas department of agriculture are hereby transferred to and imposed on the veterinary examiners fee fund of the state board of veterinary examiners and the veterinary examiners fee fund of the Kansas department of agriculture is hereby abolished.

Sec. 9.

LEGISLATIVE COORDINATING COUNCIL

(a) In addition to the other purposes for which expenditures may be made by the above agency from the legislative coordinating council — operations account of the state general fund for fiscal year 2017, expenditures shall be made by the above agency from the legislative coordinating council — operations account of the state general fund for fiscal year 2017 for the director of legislative administrative services, under the direction of the legislative coordinating council, to administer and supervise the live audio streaming of legislative proceedings: *Provided*, That in providing such live audio streaming, the director shall work in cooperation with the information network of Kansas, inc., created by K.S.A. 74-9303, and amendments thereto, which shall provide any services and equipment that the director and the board of the information network of Kansas, inc., have agreed upon and that the director determines to be necessary for the provision of such live audio streaming.

Sec. 10.

SECRETARY OF STATE

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

Publication of proposed constitutional amendments \$29,833

Sec. 11.

DEPARTMENT OF ADMINISTRATION

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 80(c) of chapter 104 of the 2015 Session Laws of Kansas, on the Docking state office building rehab, repair and razing fund of the department of administration is hereby decreased from no limit to \$0.

(b) On the effective date of this act, the provisions of section 80(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. 12.

DEPARTMENT OF ADMINISTRATION

(a) On or before June 30, 2017, the secretary of administration: (1) Shall determine the amount of moneys appropriated in each account of the state general fund or each special revenue fund or funds appropriated for fiscal year 2017 for the executive branch agencies that are not required to be expended or encumbered due to the department of administration implementing procurement and risk management recommendations, modifying any state employee insurance and benefit program, or implementing any other efficiency recommendation made to the 2016 legislature by the Kansas statewide efficiency review; and (2) shall certify each such amount to the director of the budget, accompanied by such other information with respect thereto as may be prescribed by the director of the budget: *Provided*, That, on or before June 30, 2017, the director of the budget shall certify each amount appropriated from the state general fund, which is certified by the secretary of administration pursuant to this section, to the director of accounts and reports and upon receipt of each such certification, the amount so certified is hereby lapsed: *Provided further*, That, on or before June 30, 2017, the director of the budget shall certify each amount appropriated from each special revenue fund or funds, which is certified by the secretary of administration pursuant to this section, to the director of accounts and reports and upon receipt of each such certification, the amount so certified is hereby transferred to 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 each such certification to the director of legislative research: *And provided further*, That the aggregate of all amounts lapsed from appropriations from the state general fund and amounts transferred from special revenue funds pursuant to this subsection, shall be equal to \$6,500,000 or more.

(b) During the fiscal year ending June 30, 2017, the director of the budget may transfer any part of any item of appropriation due to the

department of administration implementing procurement and risk management recommendations; modifying any state employee insurance and benefit program; or implementing any other efficiency recommendation made to the 2016 legislature by the Kansas statewide efficiency review in any executive branch agency account of the state general fund or any special revenue fund or funds appropriated for fiscal year 2017 for such executive branch agency to another item of appropriation for the same purposes in any other executive branch agency account of the state general fund or any special revenue fund or funds appropriated for fiscal year 2017 for such other executive branch agency. The director of the budget shall certify each such amount transferred and shall transmit a copy of each such certification to the director of legislative research.

(c) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 81(c) of chapter 104 of the 2015 Session Laws of Kansas, on the Docking state office building rehab, repair and razing fund of the department of administration is hereby decreased from no limit to \$0.

(d) On July 1, 2016, the provisions of section 81(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.

(e) During the fiscal year ending June 30, 2017, 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 any special revenue fund or funds for the above agency for fiscal year 2017 by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, 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 state general fund or from any special revenue fund or funds for fiscal year 2017, for the secretary of administration, as part of the system of payroll accounting formulated under K.S.A. 75-5501, and amendments thereto, to establish a payroll deduction plan for the purpose of allowing insurers, who are authorized to do business in the state of Kansas, to offer to state employees accident, disability, specified disease and hospital indemnity products which may be purchased by such employees: *Provided, however*, That any such insurer and indemnity product shall be approved by the Kansas state employees health care commission prior to the establishment of such payroll deduction: *Provided*, That upon notification of an employing agency's receipt of written authorization by any state employee, the director of accounts and reports shall make periodic deductions of amounts as specified in such authorization from the salary or wages of such state employee for the purpose of purchasing such indemnity products: *Provided further*, That, subject to the approval of the secretary of administration, the director of accounts and reports may prescribe procedures, limitations and conditions for making payroll deductions pursuant to this section.

Sec. 13.

DEPARTMENT OF ADMINISTRATION

(a) During the fiscal year ending June 30, 2018, 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 any special revenue fund or funds for the above agency for fiscal year 2018 by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or other appropriation act of the 2016, 2017 or 2018 regular session of the legislature, expenditures may be made by the above agency from the state general fund or from any special revenue fund or funds for fiscal year 2018, for the secretary of administration, as part of the system of payroll accounting formulated under K.S.A. 75-5501, and amendments thereto, to establish a payroll deduction plan, for the purpose of allowing insurers, who are authorized to do business in the state of Kansas, to offer to state employees accident, disability, specified disease and hospital indemnity products which may be purchased by such employees: *Provided, however,* That any such insurer and indemnity product shall be approved by the Kansas state employees health care commission prior to the establishment of such payroll deduction: *Provided,* That upon notification of an employing agency's receipt of written authorization by any state employee, the director of accounts and reports shall make periodic deductions of amounts as specified in such authorization from the salary or wages of such state employee for the purpose of purchasing such indemnity products: *Provided further,* That, subject to the approval of the secretary of administration, the director of accounts and reports may prescribe procedures, limitations and conditions for making payroll deductions pursuant to this section.

Sec. 14.

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:

MSA compliance compact	\$450,000
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(b) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, pursuant to section 34(c) of 2016 House Substitute for Senate Bill No. 161 on the division of vehicles operating fund (565-00-2089-2020) of the department of revenue is hereby increased from \$47,475,191 to \$48,165,032.

(c) On July 1, 2016, the amount of \$11,481,784 authorized by section 89(c) of chapter 104 of the 2015 Session Laws of Kansas to be transferred by the director of accounts and reports from the state highway fund of the department of transportation to the division of vehicles operating fund of the department of revenue on July 1, 2016, October 1, 2016, January 1, 2017, and April 1, 2017, is hereby increased to \$11,513,742.

Sec. 15.

KANSAS LOTTERY

(a) On the effective date of this act, the aggregate of the amounts authorized by section 90(b) of chapter 104 of the 2015 Session Laws of Kansas to be transferred from the lottery operating fund to the state gaming revenues fund during the fiscal year ending June 30, 2016, is hereby increased from \$74,700,000 to \$76,500,000.

Sec. 16.

DEPARTMENT OF COMMERCE

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

KBA grant commitments \$6,570,000

Provided, That, if 2016 Senate Bill No. 474, or any other legislation which allows the board of the Kansas bioscience authority to sell the authority or substantially all of the assets of the authority, is not passed by the legislature during the 2016 regular session and enacted into law, or if such legislation is enacted into law but such sale is not completed, then the \$6,570,000 appropriated for the above agency for the fiscal year ending June 30, 2017, by this section from the state general fund in the KBA grant commitments account is hereby lapsed.

Sec. 17.

DEPARTMENT OF HEALTH AND ENVIRONMENT —
DIVISION OF HEALTH CARE FINANCE

(a) On the effective date of this act, of the \$661,573,849 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 other medical assistance account (264-00-1000-3026), the sum of \$23,700,000 is hereby lapsed.

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 43(e) of 2016 House Substitute for Senate Bill No. 161 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 \$91,292,513 to \$127,692,349.

Sec. 18.

DEPARTMENT OF HEALTH AND ENVIRONMENT —
DIVISION OF HEALTH CARE FINANCE

(a) On July 1, 2016, of the \$676,570,074 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 other medical assistance account (264-00-1000-3026), the sum of \$24,178,549 is hereby lapsed.

(b) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 44(c) of 2016 House Substi-

tute for Senate Bill No. 161 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 \$86,370,660 to \$130,241,472.

Sec. 19.

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:

LTC — medicaid assistance — NF (039-00-1000-0520)...	\$20,054,000
Mental health and retardation services aid and assistance (039-00-1000-4001)	\$3,500,000
Osawatomie state hospital-operating expenditures (494-00-1000-0100).....	\$9,503,982
Larned state hospital-operating expenditures (410-00-1000-0103)	\$1,896,018

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 47(g) of 2016 House Substitute for Senate Bill No. 161 on the Osawatomie state hospital fee fund (494-00-2079-4200) of the Kansas department for aging and disability services is hereby decreased from \$10,076,414 to \$7,667,778.

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 47(k) of 2016 House Substitute for Senate Bill No. 161 on the title XIX fund (039-00-2595-4130) of the Kansas department for aging and disability services is hereby decreased from \$45,963,785 to \$40,570,915.

Sec. 20.

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, 2017, the following:

State operations (039-00-1000-0801)	\$3,855,852
LTC — Medicaid assistance — NF (039-00-1000-0520) ..	\$23,859,549
Osawatomie state hospital-operating expenditures (494-00-1000-0100).....	\$1,289,537
Larned state hospital-operating expenditures (410-00-1000-0103)	\$450,000

[†]

(c) (1) Notwithstanding the provisions of K.S.A. 76-12a02, and amendments thereto, in addition to the other purposes for which expenditures may be made by the above agency for the fiscal year ending

June 30, 2017, by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016 or 2017 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 the fiscal year ending June 30, 2017, for the secretary for aging and disability services to appoint the superintendent at any institution: *Provided*, That any superintendent appointed by a person, entity or organization under contract with the secretary shall not receive a classification of service under the Kansas civil service act.

(2) Notwithstanding the provisions of K.S.A. 76-12a03, and amendments thereto, in addition to the other purposes for which expenditures may be made by the above agency for the fiscal year ending June 30, 2017, by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016 or 2017 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 the fiscal year ending June 30, 2017, for the secretary for aging and disability services or an institution's director, or such director's authorized designee, to appoint physicians at an institution: *Provided*, That any physician appointed by a person, entity or organization under contract with the secretary shall not receive a classification of service under the Kansas civil service act.

(3) Notwithstanding the provisions of K.S.A. 76-12a04, and amendments thereto, in addition to the other purposes for which expenditures may be made by the above agency for the fiscal year ending June 30, 2017, by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016 or 2017 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 the fiscal year ending June 30, 2017, for the secretary for aging and disability services or an institution's director, or such director's authorized designee, to appoint staff and other institution or commission personnel who are not assigned to a particular institution: *Provided*, That any staff or institution or commission personnel appointed on or after July 1, 2016, and on or before June 30, 2018, shall be in the unclassified service of the Kansas civil service act: *Provided, however*, That this paragraph shall not affect the classification of service under the Kansas civil service act for any staff or other personnel appointed prior to July 1, 2016: *And provided further*, That any staff or institution or commission personnel appointed by a person, entity or organization under contract with the secretary shall not receive a classification of service under the Kansas civil service act.

(4) Notwithstanding the provisions of K.S.A. 76-12a05, and amendments thereto, in addition to the other purposes for which expenditures

may be made by the above agency for the fiscal year ending June 30, 2017, by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016 or 2017 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 the fiscal year ending June 30, 2017, for the superintendent of any institution to appoint employees at such institution: *Provided*, That any employee appointed on or after July 1, 2016, and on or before June 30, 2018, shall be in the unclassified service of the Kansas civil service act: *Provided, however*, That this paragraph shall not affect the classification of service under the Kansas civil service act for any employee appointed prior to July 1, 2016: *And provided further*, That any employee appointed by a person, entity or organization under contract with the secretary shall not receive a classification of service under the Kansas civil service act.

(5) For purposes of this subsection, “institution” means Osawatomi state hospital, Larned state hospital, Parsons state hospital and training center or Kansas neurological institute.

(6) (A) Notwithstanding any other provision of law, during the fiscal year ending June 30, 2017, the above agency shall not expend any moneys appropriated for the fiscal year ending June 30, 2017, from the state general fund or in any special revenue fund or funds for such agency by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016 or 2017 regular session of the legislature to outsource or privatize any operations or facilities of the Larned state hospital or Osawatomi state hospital without prior specific authorization by an act of the legislature or an appropriation act of the legislature.

(B) Nothing in this paragraph shall prevent any state agency from renewing, in substantially the same form as an existing agreement, any agreement in existence prior to March 4, 2016, for services at the Larned state hospital or the Osawatomi state hospital during the fiscal year ending June 30, 2017.

(C) Nothing in this paragraph shall prevent any state agency from entering into an agreement for services at the Larned state hospital or the Osawatomi state hospital with a different provider if such agreement is substantially similar to an agreement for services in existence prior to March 4, 2016, during the fiscal year ending June 30, 2017.

Sec. 21.

KANSAS DEPARTMENT FOR
AGING AND DISABILITY SERVICES

(a) (1) Notwithstanding the provisions of K.S.A. 76-12a02, and amendments thereto, in addition to the other purposes for which expenditures may be made by the above agency for the fiscal year ending

June 30, 2018, by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016, 2017 or 2018 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 the fiscal year ending June 30, 2018, for the secretary for aging and disability services to appoint the superintendent at any institution: *Provided*, That any superintendent appointed by a person, entity or organization under contract with the secretary shall not receive a classification of service under the Kansas civil service act.

(2) Notwithstanding the provisions of K.S.A. 76-12a03, and amendments thereto, in addition to the other purposes for which expenditures may be made by the above agency for the fiscal year ending June 30, 2018, by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016, 2017 or 2018 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 the fiscal year ending June 30, 2018, for the secretary for aging and disability services or an institution's director, or such director's authorized designee, to appoint physicians at an institution: *Provided*, That any physician appointed by a person, entity or organization under contract with the secretary shall not receive a classification of service under the Kansas civil service act.

(3) Notwithstanding the provisions of K.S.A. 76-12a04, and amendments thereto, in addition to the other purposes for which expenditures may be made by the above agency for the fiscal year ending June 30, 2018, by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016, 2017 or 2018 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 the fiscal year ending June 30, 2018, for the secretary for aging and disability services or an institution's director, or such director's authorized designee, to appoint staff and other institution or commission personnel who are not assigned to a particular institution: *Provided*, That any staff or institution or commission personnel appointed on or after July 1, 2016, and on or before June 30, 2018, shall be in the unclassified service of the Kansas civil service act: *Provided, however*, That this paragraph shall not affect the classification of service under the Kansas civil service act for any staff or other personnel appointed prior to July 1, 2016: *And provided further*, That any staff or institution or commission personnel appointed by a person, entity or organization under contract with the secretary shall not receive a classification of service under the Kansas civil service act.

(4) Notwithstanding the provisions of K.S.A. 76-12a05, and amend-

ments thereto, in addition to the other purposes for which expenditures may be made by the above agency for the fiscal year ending June 30, 2018, by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016, 2017 or 2018 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 the fiscal year ending June 30, 2018, for the superintendent of any institution to appoint employees at such institution: *Provided*, That any employee appointed on or after July 1, 2016, and on or before June 30, 2018, shall be in the unclassified service of the Kansas civil service act: *Provided, however*, That this paragraph shall not affect the classification of service under the Kansas civil service act for any employee appointed prior to July 1, 2016: *And provided further*, That any employee appointed by a person, entity or organization under contract with the secretary shall not receive a classification of service under the Kansas civil service act.

(5) For purposes of this subsection, “institution” means Osawatomie state hospital, Larned state hospital, Parsons state hospital and training center or Kansas neurological institute.

(6) (A) Notwithstanding any other provision of law, during the fiscal year ending June 30, 2018, the above agency shall not expend any moneys appropriated for the fiscal year ending June 30, 2018, from the state general fund or in any special revenue fund or funds for such agency by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or any other appropriation act of the 2016, 2017 or 2018 regular session of the legislature to enter into any agreement or take any action to outsource or privatize any operations or facilities of the Larned state hospital or Osawatomie state hospital without prior specific authorization by an act of the legislature or an appropriation act of the legislature.

(B) Nothing in this paragraph shall prevent any state agency from renewing, in substantially the same form as an existing agreement, any agreement in existence prior to March 4, 2016, for services at the Larned state hospital or the Osawatomie state hospital during the fiscal year ending June 30, 2018.

(C) Nothing in this paragraph shall prevent any state agency from entering into an agreement for services at the Larned state hospital or the Osawatomie state hospital with a different provider if such agreement is substantially similar to an agreement for services in existence prior to March 4, 2016, during the fiscal year ending June 30, 2018.

Sec. 22.

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 \$4,620,000 is hereby lapsed.

Sec. 23.

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:

State operations (including official hospitality) (629-00-1000-0013)	\$902,000
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(b) On July 1, 2016, of the \$117,440,880 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 111(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 \$1,534,000 is hereby lapsed.

(c) On July 1, 2016, during the fiscal year ending June 30, 2017, in addition to any limitations established in section 50(e) of 2016 House Substitute for Senate Bill No. 161 on the temporary assistance to needy families federal fund of the above agency, any such programs, projects, improvements or services 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, shall be for those families that meet at least one risk criteria that qualifies under the purposes of the federal guidelines for temporary assistance to needy families program: *Provided*, That on July 1, 2016, the provisions of section 50(e)(1) of 2016 House Substitute for Senate Bill No. 161 are hereby declared to be null and void and shall have no force and effect.

Sec. 24.

DEPARTMENT OF EDUCATION

(a) If, during the fiscal year ending June 30, 2016, 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, has been lapsed or transferred pursuant to the provisions of section 98(a)(1) of 2016 House Substitute for Senate Bill No. 161, then, 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 any special revenue fund or funds for the above agency for fiscal year 2016 by chapter 4 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or other appropriation act of the 2016 regular session of the legislature, expenditures shall be made by the above agency from the state general fund or from any special revenue fund or funds for fiscal year 2016, to calculate the cost-of-living weighting

pursuant to the provisions of K.S.A. 2015 Supp. 72-6475, and amendments thereto, for fiscal year 2016 as if such item of appropriation had not been lapsed or transferred.

Sec. 25.

KANSAS STATE UNIVERSITY

(a) On July 1, 2016, the Salina, college of technology account of the state general fund of Kansas state university is hereby redesignated as the Kansas state university polytechnic campus account of the state general fund of Kansas state university.

Sec. 26.

WICHITA STATE UNIVERSITY

(a) In addition to the other purposes for which expenditures may be made by Wichita state university from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2016 or fiscal year 2017 authorized by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or other appropriation act of the 2016 regular session of the legislature, expenditures shall be made by Wichita state university from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2016 or for fiscal year 2017 to provide for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for a capital improvement project to construct parking garage 1: *Provided*, That such capital improvement project is hereby approved for Wichita state university for the purposes of K.S.A. 74-8905(b), and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: *Provided further*, That Wichita state university may make expenditures from the money received from the issuance of any such bonds for such capital improvement project: *Provided, however*, That expenditures from the moneys received from the issuance of any such bonds for such capital improvement project shall not exceed \$7,200,000, plus all amounts required for costs of bond issuance, costs of interest on the bonds issued for such capital improvement project during the construction of such project, credit enhancement costs and any required reserves for payment of principal and interest on the bonds: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants: *And provided further*, That debt service for any such bonds for such capital improvement projects shall be financed by appropriations from any appropriate special revenue fund or funds: *And provided further*, That Wichita state university shall make provisions for the maintenance of parking garage 1.

Sec. 27.

DEPARTMENT OF CORRECTIONS

(a) 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 \$3,154,000 is hereby lapsed.

Sec. 28.

DEPARTMENT OF CORRECTIONS

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

Purchase of services..... \$319,000

(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:

Kansas juvenile justice improvement fund..... No limit
Juvenile alternatives to detention fund..... No limit

Provided, That notwithstanding the provisions of K.S.A. 79-4803, and amendments thereto, or any other statute, expenditures may be made by the above agency from the juvenile alternatives to detention fund for per diem payments to detention centers: *Provided, however*, That expenditures from the juvenile alternatives to detention fund for per diem payments to detention centers shall not exceed \$2,258,988.

Sec. 29.

ADJUTANT GENERAL

(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 shall not exceed the following:

Fire management assistance grant — federal fund No limit

Sec. 30.

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

Fire management assistance grant — federal fund No limit

Sec. 31.

KANSAS HIGHWAY PATROL

(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:

Kansas highway patrol staffing and training fund..... No limit

Sec. 32.

EMERGENCY MEDICAL SERVICES BOARD

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2016, by section 154(a) of chapter 104 of the 2015 Session Laws of Kansas for the emergency medical services operating fund of the emergency medical services board is hereby increased from \$1,322,955 to \$1,362,955.

Sec. 33.

EMERGENCY MEDICAL SERVICES BOARD

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 155(a) of chapter 104 of the 2015 Session Laws of Kansas for the emergency medical services operating fund of the emergency medical services board is hereby increased from \$1,349,331 to \$1,379,331.

Sec. 34.

DEPARTMENT OF AGRICULTURE

(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:

Kansas conservation reserve enhancement program fund No limit

(b) Any unencumbered balance in excess of \$100 as of June 30, 2016, in the conservation reserve enhancement program account of the state water plan fund is hereby reappropriated for the above agency for fiscal year 2017: *Provided*, That during fiscal year 2017, moneys in this account shall be expended only for the purposes for which expenditures may be made from the Kansas conservation reserve enhancement program fund of the department of agriculture pursuant to the provisions of 2016 Senate Bill No. 330.

Sec. 35.

KANSAS DEPARTMENT OF WILDLIFE, PARKS AND TOURISM

(a) Notwithstanding the provisions of the provisos in section 167(a) of chapter 104 of the 2015 Session Laws of Kansas on the reimbursement for annual licenses issued to national guard members account, reimbursement for annual park permits issued to national guard members account or reimbursement for annual licenses issued to Kansas disabled veterans account of the state economic development initiatives fund for the Kansas department of wildlife, parks and tourism, during the fiscal year ending June 30, 2017, the secretary of wildlife, parks and tourism, with the ap-

proval 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 reimbursement for annual licenses issued to national guard members account, reimbursement for annual park permits issued to national guard members account or reimbursement for annual licenses issued to Kansas disabled veterans account of the state economic development initiatives fund for the Kansas department of wildlife, parks and tourism to another item of appropriation for fiscal year 2017 in the reimbursement for annual licenses issued to national guard members account, reimbursement for annual park permits issued to national guard members account or reimbursement for annual licenses issued to Kansas disabled veterans account of the state economic development initiatives fund for the Kansas department of wildlife, parks and tourism. The secretary of wildlife, parks and tourism 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. 36.

DEPARTMENT OF TRANSPORTATION

(a) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 169(b) of chapter 104 of the 2015 Session Laws of Kansas for the agency operations account of the state highway fund of the department of transportation is hereby increased from \$256,601,308 to \$256,690,608.

(b) In addition to the other purposes for which expenditures may be made by the above agency from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2017 for such state agency as authorized by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or other appropriation act of the 2016 or 2017 regular session of the legislature, expenditures may be made by such state agency from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2017 for the purposes of directing the director of unmanned aircraft systems (UAS) to focus on research and development efforts through and between state educational institutions, as defined in K.S.A. 76-711, and amendments thereto: *Provided*, That the director shall work with state educational institutions on the development and growth of new and existing UAS research and development programs: *Provided further*, That the director shall work with the state educational institutions on the creation of partnerships with the UAS industry to develop and sustain public-private partnerships focused on UAS research and development in Kansas: *And provided further*, That the director shall work in conjunction with the department of commerce to develop economic development initiatives related to the UAS program and the work of the state educational institutions: *And provided further*, That the di-

rector shall work with local governments and economic development groups, in conjunction with the state educational institutions, in the communities of the state educational institutions on local economic growth initiatives centered on the UAS industry: *And provided further*, That the director shall work with Kansas local governments to promote the benefits of a robust Kansas UAS industry to the general public and work to ensure any locally developed UAS policies or ordinances are consistent with state and federal regulation: *And provided further*, That the director shall work to position the state educational institutions as national leaders for UAS research and development and the state of Kansas as a national leader within the UAS industry: *And provided further*, That the director shall develop relationships with national leaders within the UAS industry and national intergovernmental, transportation and UAS organizations to better position the state of Kansas and the state educational institutions as national leaders with the UAS industry: *And provided further*, That the director shall work, in conjunction with the state educational institutions, to seek out and apply for grants to advance UAS research and development programs: *And provided further*, That the director shall study the use of UAS for purposes of inspection and surveillance methods in conjunction with the UAS programs of the department of transportation, the Kansas national guard, the Kansas highway patrol, the Kansas bureau of investigation and state educational institutions in the UAS triangle: *And provided further*, That the director shall report to legislature on areas where cooperation in training and usage of UAS for inspection and surveillance methods is occurring or may occur in the future: *And provided further*, That the director shall use office space made available by Kansas state university polytechnic campus for at least half of the director's office time: *And provided further*, That the director shall make recommendations regarding state laws and rules and regulations which are complementary to federal UAS regulatory and policy efforts and balance privacy concerns with the need for robust UAS economic development in the state of Kansas: *And provided further*, That the director shall develop a five-year strategic plan regarding research and development efforts through and between the state educational institutions and provide a report to the legislature on the implementation of this plan on or before the first day of the 2017 regular legislative session.

Sec. 37. (a) If any state agency is certified to administer a program or service funded by the CIF grants account of the children's initiatives fund previously administered by a different state agency pursuant to section 50(f) of 2016 House Substitute for Senate Bill No. 161, the director of the budget shall direct the director of accounts and reports to create any new required special revenue fund or funds in the newly appointed administering authority and transfer all associated appropriations and expenditure authority.

(b) 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, section 50 of 2016 House Substitute for Senate Bill No. 161, 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 Kansas children's cabinet: *Provided*, That if the Kansas children's cabinet determines that the administrative authority for the Kansas children's cabinet is different than the administrative authority in fiscal year 2016, the 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: (1) Any new, required special revenue fund or funds in the newly appointed administrative authority and transfer all associated appropriations and expenditure authority; and (2) any new, required account of the Kansas endowment for youth fund in the newly appointed administrative authority and transfer all associated appropriations and reappropriations.

(c) If the Kansas department for children and families authorizes an expenditure of moneys from the temporary assistance for needy families federal fund in fiscal year 2017 for programs, projects, improvements, services and other purposes administered by another agency pursuant to section 50(e) of 2016 House Substitute for Senate Bill No. 161, the director of the budget shall direct the director of accounts and reports to create a temporary assistance for needy families federal fund with no limit expenditure authority in the agency designated to receive temporary assistance for needy families funding.

Sec. 38. (a) On the effective date of this act, during fiscal year 2016, the expenditure limitations on the accounts in the children's initiatives fund, the state economic development initiatives fund and the state water plan fund shall be decreased by the amount of moneys transferred to the state general fund pursuant to the certifications of section 80(s) of chapter 104 of the 2015 Session Laws of Kansas concerning information technology projects.

(b) On July 1, 2016, during fiscal year 2017, the expenditure limitations on the accounts in the children's initiatives fund, the state economic development initiatives fund and the state water plan fund shall be decreased by the amount of moneys transferred to the state general fund pursuant to the certifications of section 81(s) of chapter 104 of the 2015 Session Laws of Kansas concerning information technology projects.

(c) On July 1, 2016, during fiscal year 2017, the term "information

technology projects” referred to in sections 81(s) and 170(c) of chapter 104 of the 2015 Session Laws of Kansas and section 95(b) of 2016 House Substitute for Senate Bill No. 161, shall include information technology-related expenditures including: (1) Services, labor (full-time, part-time or contract), contract payments, purchases related to planning, designing, developing, testing, implementing, training, operating, supporting, securing and maintaining any of the data, applications and/or technologies listed in this subsection; (2) all data under the custodianship of the executive branch; (3) all computer applications under the custodianship of the executive branch; and (4) all technology, digital information involving any form of computer storage, including, but not limited to, mainframes, servers, networks and network-related items, including switches, routers, cables, fiber, telecommunications and personal computer’s, laptops, tablet computers, mobile phones, digital storage in any form or format, printers and fax machines, and cloud computing.

Sec. 39. (a) During the fiscal ending June 30, 2017, in addition to the other purposes for which expenditures may be made by the chief executive officer of the state board of regents, from moneys appropriated from the state general fund or any special revenue fund or funds for the state board of regents for fiscal year 2017 by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or other appropriation act of the 2016 or 2017 regular session of the legislature, expenditures shall be made by the chief executive officer of the state board of regents from the state general fund or from any special revenue fund or funds for fiscal year 2017, for and on behalf of Kansas state university to sell and convey all of the rights, title and interest in the following described tracts of real estate, improvements thereon and easements, all located in Riley county, Kansas, subject to the provisions of this section:

A tract of land in the West Half of Section 1, Township 11 South, Range 07 East of the Sixth Principal Meridian, Riley County, Kansas described as follows:

Beginning at a point that is S 01°44'12" E 2518.00 feet from the Northwest Corner of the West Half of said Section 1, said point being the Northwest Corner of the Raleigh L. Eggers and Miriam Glee Eggers tract recorded in Book 693 pages 297-300 in the Riley County Registrar of Deeds Office: hence N 01°44'12" W 10.25 along the West Line of the Northwest Quarter of said Section 1: hence S 89°55'25" E 324.06 feet to a point on the North of the said Eggers tract: hence S 88°15'48" W 323.90 feet to the point of beginning, containing 1660 square feet. Subject to easements and restrictions of record.

(b) Conveyance of such rights, title and interest in such real estate, improvements thereon and easements, 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 chief executive officer. All proceeds from the sale of such real estate, improvements thereon and easements shall be deposited in the state treasury to the credit of the gifts account of the restricted fees fund of Kansas state university — extension systems and agriculture research programs.

(c) No conveyance of real estate, improvements thereon and easements 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. 40. (a) On the effective date of this act, the provisions of section 179 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. 41. (a) During fiscal year 2016 and fiscal year 2017, notwithstanding any other provision of law, no state agency shall expend any moneys appropriated for fiscal year 2016 or fiscal year 2017 from the state general fund or from any special revenue fund or funds by chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or other appropriation act of the 2016 or 2017 regular session of the legislature to integrate, consolidate or otherwise alter the structure of the following home and community based waiver services under the Kansas program of medical assistance, or to submit to the centers for medicare and medicaid services any proposal to integrate, consolidate or alter such waiver services, if such integration, consolidation or alteration is designed or intended to be implemented before fiscal year 2019: Medical services; behavioral health services; transportation; nursing facilities; other long-term care; autism; frail elderly; technology assistance; physical disability; traumatic brain injury; intellectual/developmental disability; or serious emotional disturbance: *Provided*, That the department for health and environment and the Kansas department for aging and disability services shall prepare and submit reports to the house committee on appropriations, the senate committee on ways and means and the Robert G. (Bob) Bethell joint committee on home and community based services and KanCare oversight on or before January 1, 2017, and March 1, 2017, describing the status of any plan to integrate, consolidate or structurally alter such waiver services, including any proposed waiver applications or amendments, any service definitions and the proposed rate structure for each such service.

Sec. 42. (a) In addition to the other purposes for which expenditures may be made by any executive branch state agency during fiscal year 2017, if expenditures are made by such state agency for a parent education grant program, then expenditures shall be made by such state agency from moneys appropriated for fiscal year 2017 by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161,

this or other appropriation act of the 2016 or 2017 regular session of the legislature to require that such program expenditures shall be matched by the school district in an amount which is equal to not less than 65% of the grant.

Sec. 43. (a) In addition to the exceptions established in section 98(c) of 2016 House Substitute for Senate Bill No. 161, during fiscal year 2016, the provisions of section 98(a)(1) of 2016 House Substitute for Senate Bill No. 161 and during fiscal year 2017, the provisions of section 98(a)(2) of 2016 House Substitute for Senate Bill No. 161 shall not apply to any item of appropriation which provides funding for any state agency for domestic violence prevention grants.

Sec. 44. During the fiscal year ending June 30, 2017, the provisions of section 99 of 2016 House Substitute for Senate Bill No. 161 establishing expenditure limitations for any special revenue fund for fiscal year 2017 shall not apply to the Johnson county education research triangle fund (682-00-2393-2390) of the university of Kansas.

Sec. 45. (a) In addition to the exceptions established in section 98(c) of 2016 House Substitute for Senate Bill No. 161, during fiscal year 2016, the provisions of section 98(a)(1) of 2016 House Substitute for Senate Bill No. 161 and during fiscal year 2017, the provisions of section 98(a)(2) of 2016 House Substitute for Senate Bill No. 161 shall not apply to any item of appropriation which provides funding to any state agency for school districts educating students in kindergarten or any of the grades one through 12.

Sec. 46. During fiscal year 2016 and fiscal year 2017, if any state agency submits a request for proposal for an entity to provide services and management at Larned state hospital or Osawatomie state hospital, such request for proposal shall include a requirement for an electronic medical record solution for records at Larned state hospital or Osawatomie state hospital: *Provided*, That any such electronic medical record solution shall: (a) Implement ongoing support of electronic health records developed on a fully integrated architecture that includes pharmacy and the revenue cycle; (b) provide a clinical, operational and financial system that meets federal regulatory standards, including standards for reimbursement; and (c) enable the exchange of health information with outside electronic medical record systems, public health organizations, clinicians, administrative staff and provider organizations and enable physicians to view health data within the physician's workflow from other providers across care delivery venues: *Provided further*, That any such electronic medical record solution may be hosted at a location remote from Larned state hospital or Osawatomie state hospital but shall not host patient data offshore: *Provided, however*, That the selection of any entity to provide such services and management at Larned state hospital or Osawatomie state hospital shall be approved in an act of the legislature

or an appropriation act of the legislature pursuant to the provisions of section 100 of 2016 House Substitute for Senate Bill No. 161.

Sec. 47. 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 fiscal year 2016 or fiscal year 2017 as authorized by chapters 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or other appropriation act of the 2016 or 2017 regular session of the legislature, to demolish the Docking state office building or to reconstruct, relocate, or renovate the power plant or energy center without prior specific authorization by an act of the legislature or an appropriation act of the legislature: *Provided*, That no expenditures may be made from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2016 or fiscal year 2017 as authorized by chapters 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or other appropriation act of the 2016 or 2017 regular session of the legislature by any state agency to sell, lease, transfer or otherwise convey the land on which building no. 3 (Docking state office building) is situated without prior specific authorization in an act of the legislature or an appropriation act of the legislature.

Sec. 48. During the fiscal year ending June 30, 2017, notwithstanding the provisions of section 98(a) of 2016 House Substitute for Senate Bill No. 161, if the director of the budget uses the allotment authority granted under section 98(a) of 2016 House Substitute for Senate Bill No. 161, which applies to any state educational institution, as defined in K.S.A. 76-711, and amendments thereto, such allotment shall be calculated as a uniform percentage amount from the total of all operating budget accounts of the state general fund and any special revenue fund or funds of each state educational institution.

Sec. 49. (a) In addition to the other purposes for which expenditures may be made by state agencies from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2017 as authorized by chapter 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this or other appropriation act of the 2016 or 2017 regular session of the legislature, expenditures shall be made by state agencies from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2017 for the purpose of identifying all surplus real estate of state agencies and seeking to market such surplus real estate in order to receive the best price for the state, as soon as practicable. All surplus real estate to be sold pursuant to this section shall be identified and approved for sale by the secretary of administration by November 1, 2016.

(b) Any sale of surplus real estate pursuant to this section shall not

be subject to the provisions of K.S.A. 75-3043a, and amendments thereto. The secretary of administration or the secretary's designee shall approve any sale price of any surplus real estate before such property is offered for sale.

(c) (1) Notwithstanding the provisions of K.S.A. 75-6609(f), and amendments thereto, any proceeds from the sale of such surplus real estate, after deduction of the expenses of such sale, shall be deposited in the state treasury as prescribed by this subsection. All proceeds from each such sale deposited in the state treasury shall be credited to the surplus real estate fund or another appropriate special revenue fund of the state agency which owned the surplus real estate, as is prescribed by law or as may be determined by the state agency, unless otherwise required by restrictions of the state's title to the real estate being sold.

(2) The amount of expenses and the costs for each sale of surplus real estate pursuant to this section shall be transferred and credited to the property contingency fund created under K.S.A. 75-3652, and amendments thereto, and may be expended for any operations of the department of administration.

(3) Any state agency owning real estate may apply to the director of accounts and reports to establish a surplus real estate special revenue fund in the state treasury. Subject to the provisions of appropriation acts, moneys in a surplus real estate special revenue fund may be expended for the operating expenditures of the state agency.

(d) The provisions of this section shall expire on June 30, 2017.

Sec. 50. (a) During the fiscal year ending June 30, 2016, if the director of the budget lapses or transfers any amount pursuant to section 98(a)(1) of 2016 House Substitute for Senate Bill No. 161 from the state general fund or from the expanded lottery act revenues fund that would be attributable to employer contributions for any state agency, pursuant to K.S.A. 2015 Supp. 74-4920, as amended by 2016 House Substitute for Senate Bill No. 161, the director of the budget shall certify such amount or amounts. Such amount or amounts shall be repaid with an interest rate of 8% per annum to the Kansas public employees retirement fund from the state general fund, in the manner prescribed in this section.

(b) On June 30, 2017, the director of the budget and the director of legislative research shall certify the amount which the actual tax receipt revenues to the state general fund exceed the April, 2017, joint estimate of revenue pursuant to K.S.A. 75-6701, and amendments thereto. Upon receipt of such certification, the director of accounts and reports shall transfer such certified amount from the state general fund to the Kansas public employees retirement fund to repay the amount lapsed or transferred pursuant to subsection (a), including any interest payments.

(d) If any amounts remain to be repaid from the amount lapsed or transferred pursuant to subsection (a), including any interest payments, on June 30, 2018, the director of the budget and the director of legislative research shall certify the amount which the actual tax receipt revenues to the state general fund exceed the April, 2018, joint estimate of revenue pursuant to K.S.A. 75-6701, and amendments thereto. Upon receipt of such certification, the director of accounts and reports shall transfer such certified amount from the state general fund to the Kansas public employees retirement fund to repay the amount lapsed or transferred pursuant to subsection (a), including any interest payments.

(e) If any amounts remain to be repaid from the amount lapsed or transferred pursuant to subsection (a), including any interest payments, on June 30, 2018, notwithstanding the provisions of K.S.A. 38-2102, and amendments thereto, or any other statute, the director of the budget and the director of legislative research shall certify the amount of moneys received by the state pursuant to the tobacco litigation settlement agreements entered into by the attorney general on behalf of the state of Kansas, or pursuant to any judgment rendered, regarding the litigation against tobacco industry companies and related entities which are in excess of all expenditures or transfers that have been made from the Kansas endowment for youth fund, as provided by law in the fiscal year ending June 30, 2018. Upon receipt of such certification, the director of accounts and reports shall transfer such certified amount from the Kansas endowment for youth fund to the Kansas public employees retirement fund to repay the amount lapsed or transferred pursuant to subsection (a), including any interest payments.

(f) If any amounts remain to be repaid from the amount lapsed or transferred pursuant to subsection (a), including any interest payments, on June 30, 2018, after the transfers pursuant to subsections (b) through (e) have been made from the state general fund to the Kansas public employees retirement fund, the director of the budget and the director of legislative research shall certify the remaining amount to be repaid from the amount lapsed or transferred pursuant to subsection (a), including any interest payments. Upon receipt of such certification, the director of accounts and reports shall transfer such certified amount from the state general fund to the Kansas public employees retirement fund.

Sec. 51. K.S.A. 2015 Supp. 74-4914d, as amended by section 106 of House Substitute for Senate Bill No. 161, 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 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 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, 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~~ *without regard to transfers made pursuant to section 50 of this act.* As used in this section, “capitalized interest” means interest payments on the bonds that are prefunded or financed from bond proceeds as part of the issue for a specified period of time in order to offset one or more initial debt service payments.

Sec. 52. K.S.A. 2015 Supp. 74-4920, as amended by section 107 of House Substitute for Senate Bill No. 161, 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 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 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 to be calculated ~~as if no certification is made reducing or increasing the rate of employer contribution as provided in subsection (17) or (18) without regard to transfers made pursuant~~

to section 50 of this act. 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, 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 lapsed 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 10.91%.~~

~~(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. 53. K.S.A. 2015 Supp. 74-99b34, as amended by section 109 of 2016 House Substitute for Senate Bill No. 161, 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), 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, 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 ~~\$8,000,000~~ \$6,997,663 for such fiscal year.

(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 \$6,000,000 for such fiscal year.

(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 \$6,000,000 for such fiscal year.

Sec. 54. K.S.A. 2015 Supp. 74-4914d, as amended by section 106 of House Substitute for Senate Bill No. 161, 74-4920, as amended by section 107 of 2016 House Substitute for Senate Bill No. 161, and 74-99b34, as amended by section 109 of 2016 House Substitute for Senate Bill No. 161, are hereby repealed.

Sec. 55. *Severability.* If any provision or clause of this act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this 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. 56. *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 such funds.

Sec. 57. *Savings.* (a) Any unencumbered balance as of June 30, 2016, in any special revenue fund, or account thereof, of any state agency named in chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161 or this act which is not otherwise specifically appropriated or limited for fiscal year 2017 by chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this act or any other appropriation act of the 2016 regular session of the legislature, is hereby appropriated for the fiscal year ending

June 30, 2017, for the same use and purpose as the same was heretofore appropriated.

(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, the Kansas endowment for youth fund, the Kansas educational building fund, the state institutions building fund, or the correctional institutions building fund, or to any account of any of such funds.

Sec. 58. (a) During the fiscal year ending June 30, 2017, all moneys which are lawfully credited to and available in any bond special revenue fund, which are not otherwise specifically appropriated or limited by chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this act or other appropriation act of the 2016 regular session of the legislature, are hereby appropriated for the fiscal year ending June 30, 2017, for the state agency for which the bond special revenue fund was established for the purposes authorized by law for expenditures from such bond special revenue fund.

(b) As used in this section, "bond special revenue fund" means any special revenue fund or account thereof established in the state treasury prior to or on or after the effective date of this act for the deposit of the proceeds of bonds issued by the Kansas development finance authority, for the payment of debt service for bonds issued by the Kansas development finance authority, or for any related purpose in accordance with applicable bond covenants.

Sec. 59. *Federal grants.* (a) During the fiscal year ending June 30, 2017, each federal grant or other federal receipt which is received by a state agency named in chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161 or this act and which is not otherwise appropriated to that state agency for fiscal year 2017 by chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this act or other appropriation act of the 2016 regular session of the legislature, is hereby appropriated for fiscal year 2017 for that state agency for the purpose set forth in such federal grant or receipt, except that no expenditure shall be made from and no obligation shall be incurred against any such federal grant or other federal receipt, which has not been previously appropriated or reappropriated or approved for expenditure by the governor, for fiscal year 2017, until the governor has authorized the state agency to make expenditures from such federal grant or other federal receipt for fiscal year 2017.

(b) In addition to the other purposes for which expenditures may be made by any state agency which is named in chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161 or this act and which is not otherwise authorized by law to apply for and receive federal grants, expenditures may be made by such state

agency from moneys appropriated for fiscal year 2017 by chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this act or any other appropriation act of the 2016 regular session of the legislature to apply for and receive federal grants during fiscal year 2017, which federal grants are hereby authorized to be applied for and received by such state agencies: *Provided*, That no expenditure shall be made from and no obligation shall be incurred against any such federal grant or other federal receipt, which has not been previously appropriated or reappropriated or approved for expenditure by the governor, until the governor has authorized the state agency to make expenditures therefrom.

Sec. 60. (a) Any correctional institutions building fund appropriation heretofore appropriated to any state agency named in chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this act or other appropriation act of the 2016 regular session of the legislature, and having an unencumbered balance as of June 30, 2016, in excess of \$100 is hereby reappropriated for the fiscal year ending June 30, 2017, for the same uses and purposes as originally appropriated unless specific provision is made for lapsing such appropriation.

(b) This section shall not apply to the unencumbered balance in any account of the correctional institutions building fund that was encumbered for any fiscal year commencing prior to July 1, 2015.

Sec. 61. (a) Any Kansas educational building fund appropriation heretofore appropriated to any institution named in chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this act or other appropriation act of the 2016 regular session of the legislature and having an unencumbered balance as of June 30, 2016, in excess of \$100 is hereby reappropriated for the fiscal year ending June 30, 2017, for the same use and purpose as originally appropriated, unless specific provision is made for lapsing such appropriation.

(b) This section shall not apply to the unencumbered balance in any account of the Kansas educational building fund that was encumbered for any fiscal year commencing prior to July 1, 2015.

Sec. 62. (a) Any state institutions building fund appropriation heretofore appropriated to any state agency named in chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161, this act or other appropriation act of the 2016 regular session of the legislature and having an unencumbered balance as of June 30, 2016, in excess of \$100 is hereby reappropriated for the fiscal year ending June 30, 2017, for the same use and purpose as originally appropriated, unless specific provision is made for lapsing such appropriation.

(b) This section shall not apply to the unencumbered balance in any

account of the state institutions building fund that was encumbered for any fiscal year commencing prior to July 1, 2015.

Sec. 63. (a) Any transfers of money during the fiscal year ending June 30, 2017, from any special revenue fund of any state agency named in chapter 4, 81 or 104 of the 2015 Session Laws of Kansas, 2016 House Substitute for Senate Bill No. 161 or this act to the audit services fund of the division of post audit under K.S.A. 46-1121, and amendments thereto, shall be in addition to any expenditure limitation imposed on any such fund for the fiscal year ending June 30, 2017.

Sec. 64. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 18, 2016.

Published in the *Kansas Register* June 9, 2016.

† Section 20(b) was line-item vetoed.

† Section 50(c) was line-item vetoed.

(See Messages from the Governor)

CHAPTER 112

House Substitute for SENATE BILL No. 280

AN ACT concerning taxation; relating to powers of taxing jurisdictions; valuation, appeals, procedure; ratio study, presentation to county commissioners, exemptions; bed and breakfasts; oil and gas leases, determination of value of production, evidence; county appraisers, persons eligible; market study analysis; tax liens, extinguishment; delinquent real property taxes, interest rate, claims against the county; amending K.S.A. 19-432, 79-504, 79-1412a, 79-1456, 79-1460a and 79-2011 and K.S.A. 2015 Supp. 12-1927, 74-2426, 74-2433, 74-2438, 77-618, 79-331, 79-425a, 79-503a, 79-1439, 79-1448, 79-1460, 79-1476, 79-2004, 79-2005 and 79-2026 and repealing the existing sections.

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

New Section 1. For all taxable years commencing after December 31, 2015, all property owned and primarily operated as an airport by a healthcare foundation that has been exempted from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended, shall be exempt from all property or ad valorem taxes levied under the laws of this state. The provisions of this section shall expire and have no effect on and after January 1, 2021.

Sec. 2. K.S.A. 19-432 is hereby amended to read as follows: 19-432. (a) The director of property valuation shall maintain a current list of persons eligible to be appointed to the office of appraiser. Periodic issuance of this list shall constitute the official list of eligible Kansas appraisers who are candidates for appointment. Inclusion on this list shall

be made dependent upon successful completion of a written examination as adopted and administered by the director.

(b) The director of property valuation shall be required to conduct training courses annually for the purpose of training appraisal candidates. These courses shall be designed to prepare students to successfully complete the written examinations required for eligible Kansas appraiser status.

(c) Once certified, an eligible Kansas appraiser may retain that status only through successful completion of additional appraisal courses at intervals as determined by the director of property valuation. The director shall be required to conduct training courses annually for the purpose of providing the additional curriculum required for retention of Kansas appraiser status. The director may accept recognized appraisal courses as an alternative to courses conducted by the director's office to fulfill this requirement for the maintenance of eligible Kansas appraiser status.

(1) *The director of property valuation may remove any person from the list of persons eligible to be appointed to the office of appraiser for any of the following acts or omissions:*

(A) *Failing to meet the minimum qualifications established by this section;*

(B) *a plea of guilty or nolo contendere to, or conviction of: (i) Any crime involving moral turpitude; or (ii) any felony charge; or*

(C) *entry of a final civil judgment against the person on grounds of fraud, misrepresentation or deceit in the making of any appraisal of real or personal property.*

(2) *Any person removed from the list of persons eligible to be appointed to the office of county appraiser under the provisions of this section shall immediately forfeit the office of county or district appraiser.*

(3) *An appeal may be taken to the state board of tax appeals from any final action of the director of property valuation under the provisions of this section pursuant to K.S.A. 74-2438, and amendments thereto.*

(4) *The director of property valuation may relist a person as an eligible county appraiser upon a showing of mitigating circumstances, restitution or expungement.*

Sec. 3. K.S.A. 2015 Supp. 74-2426 is hereby amended to read as follows: 74-2426. (a) Orders of the state board of tax appeals on any appeal, in any proceeding under the tax protest, tax grievance or tax exemption statutes or in any other original proceeding before the board shall be rendered and served in accordance with the provisions of the Kansas administrative procedure act. Notwithstanding the provisions of ~~subsection (g) of K.S.A. 77-526(g)~~, and amendments thereto, a written summary decision shall be rendered by the board and served within 14 days after the matter was fully submitted to the board unless this period is waived or extended with the written consent of all parties or for good

cause shown. Any aggrieved party, within 14 days of receiving the board's decision, may request a full and complete opinion be issued by the board in which the board explains its decision. *Except as provided in subsection (c)(4)*, this full opinion shall be served by the board within 90 days of being requested. If the board has not rendered a summary decision or a full and complete opinion within the time periods described in this subsection, and such period has not been waived by the parties nor can the board show good cause for the delay, then the board shall refund any filing fees paid by the taxpayer.

(b) Final orders of the board shall be subject to review pursuant to subsection (c) except that the aggrieved party may first file a petition for reconsideration of ~~that order~~ *a full and complete opinion* with the board in accordance with the provisions of K.S.A. 77-529, and amendments thereto.

(c) Any action of the board pursuant to this section is subject to review in accordance with the Kansas judicial review act, except that:

(1) The parties to the action for judicial review shall be the same parties as appeared before the board in the administrative proceedings before the board. The board shall not be a party to any action for judicial review of an action of the board.

(2) There is no right to review of any order issued by the board in a no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 et seq., 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and statutes of a similar character.

(3) In addition to the cost of the preparation of the transcript, the appellant shall pay to the state board of tax appeals the other costs of certifying the record to the reviewing court. Such payment shall be made prior to the transmission of the agency record to the reviewing court.

(4) *Appeal of an order of the board shall be to the court of appeals as provided in subsection (c)(4)(A), unless a taxpayer who is a party to the order requests review in district court pursuant to subsection (c)(4)(B).*

~~(A) Any aggrieved person has the right to appeal any final order of the board issued after June 30, 2014, by filing a petition with the court of appeals or the district court. Any appeal to the district court shall be a trial de novo. Any aggrieved party may file a petition for review of the board's order in the court of appeals. For purposes of such an appeal, the board's order shall become final only after the issuance of a full and complete opinion pursuant to subsection (a).~~

~~(B) Review of orders issued by the board of tax appeals relating to the valuation or assessment of property for ad valorem tax purposes or relating to the tax protest for which the appellant chooses to be reviewed in district court, shall be conducted by the district court of the county in which the property is located or, if located in more than one county, the district court of any county in which any portion of the property is~~

~~located~~At the election of a taxpayer, any summary decision or full and complete opinion of the board of tax appeals issued after June 30, 2014, may be appealed by filing a petition for review in the district court. Any appeal to the district court shall be a trial de novo. Notwithstanding K.S.A. 77-619, and amendments thereto, the trial de novo shall include an evidentiary hearing at which issues of law and fact shall be determined anew. District court review of orders issued by the board relating to the valuation or assessment of property for ad valorem tax purposes or relating to the tax protest shall be conducted by the court of the county in which the property is located, or, if located in more than one county, the court of any county in which any portion of the property is located.

(C) If a taxpayer requests review of a summary decision or full and complete opinion in district court pursuant to subsection (c)(4)(B), the taxpayer shall provide notice to the board as well as the parties. Upon receipt of the notice, the board's jurisdiction shall terminate, notwithstanding any prior request for a full and complete opinion under subsection (a), and the board shall not issue such opinion.

(d) If review of an order of the state board of tax appeals to the court of appeals relating to excise, income or estate taxes, is sought by a person other than the director of taxation, such person shall give bond for costs at the time the petition is filed. The bond shall be in the amount of 125% of the amount of taxes assessed or a lesser amount approved by the court of appeals and shall be conditioned on the petitioner's prosecution of the review without delay and payment of all costs assessed against the petitioner.

Sec. 4. K.S.A. 2015 Supp. 74-2433 is hereby amended to read as follows: 74-2433. (a) There is hereby created a state board of tax appeals, referred to in this act as the board. The board shall be composed of three members who shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. For members appointed after June 30, 2014, one of such members shall have been regularly admitted to practice law in the state of Kansas and for a period of at least five years, have engaged in the active practice of law as a lawyer, judge of a court of record or any other court in this state; one of such members shall have engaged in active practice as a certified public accountant for a period of at least five years and one such member shall be a licensed certified general real property appraiser. In addition, the governor shall also appoint a chief hearing officer, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, who, in addition to other duties prescribed by this act, shall serve as a member pro tempore of the board. No successor shall be appointed for any judge of the court of tax appeals appointed before July 1, 2014. Such persons shall continue to serve as members on the board of tax appeals until their terms expire. Except as provided by K.S.A. 46-2601,

and amendments thereto, no person appointed to the board, including the chief hearing officer, shall exercise any power, duty or function as a member of the board until confirmed by the senate. Not more than two members of the board shall be of the same political party. Members of the board, including the chief hearing officer, shall be residents of the state. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, no more than one member shall be appointed from any one of the congressional districts of Kansas unless, after having exercised due diligence, the governor is unable to find a qualified replacement within 90 days after any vacancy on the board occurs. The members of the board, including the chief hearing officer, shall be selected with special reference to training and experience for duties imposed by this act and shall be individuals with legal, tax, accounting or appraisal training and experience. State board of tax appeals members shall be subject to the supreme court rules of judicial conduct applicable to all judges of the district court. The board shall be bound by the doctrine of stare decisis limited to published decisions of an appellate court. Members of the board, including the chief hearing officer, shall hold office for terms of four years. A member may continue to serve for a period of 90 days after the expiration of the member's term, or until a successor has been appointed and confirmed, whichever is shorter. Except as otherwise provided, such terms of office shall expire on January 15 of the last year of such term. If a vacancy occurs on the board, or in the position for chief hearing officer, the governor shall appoint a successor to fill the vacancy for the unexpired term. Nothing in this section shall be construed to prohibit the governor from reappointing any member of the board, including the chief hearing officer, for additional four-year terms. The governor shall select one of its members to serve as chairperson. The votes of two members shall be required for any final order to be issued by the board. Meetings may be called by the chairperson and shall be called on request of a majority of the members of the board and when otherwise prescribed by statute.

(b) Any member appointed to the state board of tax appeals and the chief hearing officer may be removed by the governor for cause, after public hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) The state board of tax appeals shall appoint, subject to approval by the governor, an executive director of the board, to serve at the pleasure of the board. The executive director shall: (1) Be in the unclassified service under the Kansas civil service act; (2) devote full time to the executive director's assigned duties; (3) receive such compensation as determined by the board, subject to the limitations of appropriations thereof; and (4) have familiarity with the tax appeals process sufficient to fulfill the duties of the office of executive director. The executive director shall perform such other duties as directed by the board.

(d) Appeals decided by the state board of tax appeals shall be made

available to the public and shall be published by the board on the board's website within 30 days after the decision has been rendered. The board shall also publish a monthly report that includes all appeals decided that month as well as all appeals which have not yet been decided and are beyond the time limitations as set forth in K.S.A. 74-2426, and amendments thereto. Such report shall be made available to the public and transmitted by the board to the members of the Kansas legislature.

(e) After appointment, members of the state board of tax appeals that are not otherwise a state certified general real property appraiser shall complete the following course requirements: (1) A tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the cost and sales approaches to value; (2) a tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the income approach to value; (3) a tested appraisal course of not less than 30 clock hours of instruction with an emphasis on mass appraisal; (4) an appraisal course with an emphasis on Kansas property tax laws; (5) an appraisal course on the techniques and procedures for the valuation of state assessed properties with an emphasis on unit valuation; and (6) a tested appraisal course on the techniques and procedures for the valuation of land devoted to agricultural use pursuant to K.S.A. 79-1476, and amendments thereto. Any member appointed to the board who is a certified real property appraiser shall only be required to take such educational courses as are required to maintain the appraisal license. The executive director shall adopt rules and regulations prescribing a timetable for the completion of the course requirements and prescribing continued education requirements for members of the board.

(f) The state board of tax appeals shall have no capacity or power to sue or be sued.

(g) It is the intent of the legislature that proceedings in front of the board of tax appeals be conducted in a fair and impartial manner and that all taxpayers are entitled to a neutral interpretation of the tax laws of the state of Kansas. The provisions of the tax laws of this state shall be applied impartially to both taxpayers and taxing districts in cases before the board. *Valuation appeals before the board shall be decided upon a determination of the fair market value of the fee simple of the property. Nothing in this section shall prohibit a property owner, during a property valuation appeal before the board, from raising arguments regarding classification.* Cases before the board shall not be decided upon arguments concerning the shifting of the tax burden or upon any revenue loss or gain which may be experienced by the taxing district.

Sec. 5. K.S.A. 2015 Supp. 74-2438 is hereby amended to read as follows: 74-2438. (a) An appeal may be taken to the state board of tax appeals from any finding, ruling, order, decision, final determination or

other final action, including action relating to abatement or reduction of penalty and interest, on any case of the secretary of revenue or the secretary's designee by any person aggrieved thereby. Notice of such appeal shall be filed with the secretary of the board within 30 days after such finding, ruling, order, decision, final determination or other action on a case, and a copy served upon the secretary of revenue or the secretary's designee. An appeal may also be taken to the state board of tax appeals at any time when no final determination has been made by the secretary of revenue or the secretary's designee after 270 days has passed since the date of the request for informal conference pursuant to K.S.A. 79-3226, and amendments thereto, and no written agreement by the parties to further extend the time for making such final determination is in effect.

(b) Upon receipt of a timely appeal, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. The hearing before the board shall be a *de novo* hearing unless the parties agree to submit the case on the record made before the secretary of revenue or the secretary's designee.

(c) (1) With regard to any matter properly submitted to the board relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes, it shall be the duty of the county or district appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination, except that no such duty shall accrue with regard to leased commercial and industrial property unless the property owner has furnished to the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal. Any appraisal made by the county or district appraiser must be released through the discovery process to the taxpayer, the taxpayer's attorney or the taxpayer's representative. No presumption shall exist in favor of the county or district appraiser with respect to the validity and correctness of such determination. If a taxpayer presents a single property appraisal with an effective date of January 1 of the year appealed which has been conducted by a certified general real property appraiser which determines the subject property's valuation to be less than that determined by a mass real estate appraisal conducted by the county or district appraiser, then the taxpayer's property-specific appraisal shall be accepted into evidence by the board. No interest shall accrue on the amount of the assessment of tax subject to any such appeal beyond 120 days after the date the matter was fully submitted, except that, if a final order is issued within such time period, interest shall continue to accrue until such time as the tax liability is fully satisfied, and if a final order is issued beyond such time period, interest shall recommence to accrue from the date of such order until such time as the tax liability is fully satisfied.

(2) *With regard to any matter properly submitted to the board relat-*

ing to the determination of valuation of real property, if the director of property valuation has developed and adopted methodologies to value such type of property, then it shall be the duty of the county or district appraiser to demonstrate compliance with such methodologies.

Sec. 6. K.S.A. 2015 Supp. 77-618 is hereby amended to read as follows: 77-618. Judicial review of disputed issues of fact shall be confined to the agency record for judicial review as supplemented by additional evidence taken pursuant to this act, except that review of:

(a) Orders of the director of workers' compensation under the workers' compensation act shall be in accordance with K.S.A. 44-556, and amendments thereto;

(b) orders of the Kansas human rights commission under the Kansas act against discrimination or the Kansas age discrimination in employment act shall be in accordance with K.S.A. 44-1011 and 44-1021, and amendments thereto;

(c) orders of the division of vehicles, other than orders under K.S.A. 8-254, and amendments thereto, which deny, cancel, suspend or revoke a driver's license shall be in accordance with K.S.A. 8-259, and amendments thereto;

(d) orders of the secretary of labor under K.S.A. 72-5413 through 72-5431, and amendments thereto, shall be in accordance with K.S.A. 72-5430a, and amendments thereto; ~~and~~

(e) orders of the state fire marshal under K.S.A. 31-144, and amendments thereto, shall be in accordance with that section; *and*

(f) *orders of the state board of tax appeals under K.S.A. 74-2426, and amendments thereto, shall be in accordance with that section.*

Sec. 7. K.S.A. 2015 Supp. 79-331 is hereby amended to read as follows: 79-331. (a) Except as otherwise provided in subsection (b) ~~of this section~~, in determining the value of oil and gas leases or properties the appraiser shall take into consideration the age of the wells, the quality of oil or gas being produced therefrom, the nearness of the wells to market, the cost of operation, the character, extent and permanency of the market, the probable life of the wells, the quantity of oil or gas produced from the lease or property, the number of wells being operated, and such other facts as may be known by the appraiser to affect the value of the lease or property.

Whenever a change in any of the factors or figures used in determining the $\frac{8}{8}$ th valuation of the production for any oil or gas lease or property is made pursuant to the tax equalization, tax protest or tax grievance proceedings, such change shall apply to the working interest, royalty interest, overriding royalty interest and production payments and, if applicable, a refund of taxes shall be made in the manner prescribed by ~~subsection (1)(1) of K.S.A. 79-2005(l)(1)~~, and amendments thereto.

(b) The valuation of the working interest and royalty interest, except

valuation of equipment, of any original base lease or property producing oil or gas for the first time in economic quantities on and after July 1 of the calendar year preceding the year in which such property is first assessed shall be determined for the year in which such property is first assessed by determining the quantity of oil or gas such property would have produced during the entire year preceding the year in which such property is first assessed upon the basis of the actual production in such year and by multiplying the income and expenses that would have been attributable to such property at such production level, excluding equipment valuation thereof, if it had actually produced said entire year preceding the year in which such property is first assessed by 60%.

(c) The provisions of subsection (b) ~~of this section~~ shall not apply in the case of any production from any direct offset well or any subsequent well on the same lease.

(d) (1) In order to clarify and express the intent of the legislature regarding the methodology utilized in the determination of fair market value of producing oil and gas leases for property tax purposes, it is hereby declared that the primary and predominant consideration in such determination is, has been and shall be the actual value of oil and gas production severed from the earth.

(2) *Information used to establish the fair market value of producing oil and gas leases which commence production during the preceding calendar year shall be limited to any information regarding production prior to April 1 of the calendar year in which such property is assessed. Information used to establish the fair market value of any base lease or property producing oil and gas for the first time in economic quantities on and after October 1 of the calendar year preceding the year in which such property is first assessed shall be limited to any information regarding production prior to July 1 of the calendar year in which such property is assessed.*

(e) The provisions of this act shall apply to all tax years commencing on and after December 31, ~~2003~~ 2016.

Sec. 8. K.S.A. 2015 Supp. 79-425a is hereby amended to read as follows: 79-425a. (a) Whenever a tract of land which has been assessed shall thereafter be divided into tracts owned by different persons, any one or more of such persons, after giving 10 days' written notice to the other persons at their respective mailing addresses, may make application to the county appraiser for an apportionment of the assessed valuation of such tract among the several tracts, and the county appraiser ~~is authorized to~~ shall apportion such valuation among the owners of such tracts according to the value of their respective interests as shown by evidence available at a time designated by the county appraiser. Upon the apportionment of the assessed valuation among the several tracts and the levying of tax against each such tract, the county treasurer, upon payment

of such tax on any such tract, shall issue a receipt therefor and, in any case where such tax is not paid on any of such tracts, it shall be sold for delinquent taxes in the same manner prescribed by law for sale of real estate for delinquent taxes. If taxes levied on a tract of land prior to its division are delinquent, the owner of any divided portion of such tract may have that portion released from the tax lien by paying to the county treasurer the share of the delinquent tax attributable to such divided portion as shown by the apportionment made of the whole tract's assessed valuation among the divided portions by the county appraiser.

(b) Any person aggrieved by the application of the provisions of subsection (a) may, within 10 days after the apportionment decision of the county appraiser, appeal to the state board of tax appeals, and the board shall have the power, upon a showing that such decision was erroneous, to substitute an apportionment of the assessed valuation of a tract of land for that of the county appraiser.

Sec. 9. K.S.A. 2015 Supp. 79-503a is hereby amended to read as follows: 79-503a. "Fair market value" means the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion. In the determination of fair market value of any real property which is subject to any special assessment, such value shall not be determined by adding the present value of the special assessment to the sales price. For the purposes of this definition it will be assumed that consummation of a sale occurs as of January 1.

Sales in and of themselves shall not be the sole criteria of fair market value but shall be used in connection with cost, income and other factors including but not by way of exclusion:

- (a) The proper classification of lands and improvements;
- (b) the size thereof;
- (c) the effect of location on value;
- (d) depreciation, including physical deterioration or functional, economic or social obsolescence;
- (e) cost of reproduction of improvements;
- (f) productivity taking into account all restrictions imposed by the state or federal government and local governing bodies, including, but not limited to, restrictions on property rented or leased to low income individuals and families as authorized by section 42 of the federal internal revenue code of 1986, as amended;
- (g) earning capacity as indicated by lease price, by capitalization of net income or by absorption or sell-out period;
- (h) rental or reasonable rental values or rental values restricted by the state or federal government or local governing bodies, including, but not limited to, restrictions on property rented or leased to low income

individuals and families, as authorized by section 42 of the federal internal revenue code of 1986, as amended;

(i) sale value on open market with due allowance to abnormal inflationary factors influencing such values;

(j) restrictions or requirements imposed upon the use of real estate by the state or federal government or local governing bodies, including zoning and planning boards or commissions, and including, but not limited to, restrictions or requirements imposed upon the use of real estate rented or leased to low income individuals and families, as authorized by section 42 of the federal internal revenue code of 1986, as amended; and

(k) comparison with values of other property of known or recognized value. The assessment-sales ratio study shall not be used as an appraisal for appraisal purposes.

The appraisal process utilized in the valuation of all real and tangible personal property for ad valorem tax purposes shall conform to generally accepted appraisal procedures *and standards* which are ~~adaptable to mass appraisal and~~ consistent with the definition of fair market value unless otherwise specified by law.

Sec. 10. K.S.A. 79-504 is hereby amended to read as follows: 79-504. For the purposes of this act:

(a) “Appraisal foundation” and “foundation” mean the appraisal foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(b) “Written appraisal” means a written statement used in connection with the activities of the division of property valuation or a county appraiser that is independently and impartially prepared by a county appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information. ~~Appraisals produced by the computer assisted mass appraisal system prescribed or approved by the director of property valuation shall be deemed to be written appraisals for the purposes of this act.~~

Sec. 11. K.S.A. 79-1412a is hereby amended to read as follows: 79-1412a. (a) County appraisers and district appraisers shall perform the following duties:

First. Install and maintain such records and data relating to all property in the county, taxable and exempt, as may be required by the director of property valuation.

Second. Annually, as of January 1, supervise the listing and appraisal of all real estate and personal property in the county subject to taxation except state-appraised property.

Third. Attend meetings of the county board of equalization for the purpose of aiding such board in the proper discharge of its duties, making all records available to the county board of equalization.

Fourth. Prepare the appraisal roll and certify such rolls to the county clerk.

Fifth. Supervise the township trustees, assistants, appraisers and other employees appointed by the appraiser in the performance of their duties.

Sixth. The county appraiser or district appraiser in setting values for various types of personal property, shall conform to the values for such property as shown in the personal property appraisal guides devised or prescribed by the director of property valuation.

Seventh. Carry on continuously throughout the year the process of appraising real property.

Eighth. If the county appraiser or district appraiser deems it advisable, such appraiser may appoint one or more advisory committees of not less than five persons representative of the various economic interests and geographic areas of the county to assist the appraiser in establishing unit land values, unit values for structures, productivity, classifications for agricultural lands, adjustments for location factors, and generally to advise on assessment procedures and methods.

Ninth. Perform such other duties as may be required by law.

(b) The director of property valuation shall give notice to county and district appraisers and county boards of equalization of any proposed changes in the guides, schedules or methodology for use in valuing property prescribed to the county and district appraisers for use in setting values for property within the county or district. Such notice shall also be published in the Kansas register and shall provide that such changes are available for public inspection. Changes and modifications in guides, schedules or methodology for use in valuing property which are prescribed by the director of property valuation for use by county and district appraisers on or after July 1 in any year shall not be utilized in establishing the value, for the current tax year, of any property, the value of which has previously been established for such year.

(c) *Notwithstanding the provisions of this section, the county appraiser or the county appraiser's designee shall not, at any time, request the following from a taxpayer:*

(1) *Any appraisal of the property that was conducted for the purpose of obtaining mortgage financing;*

(2) *any fee appraisal with an effective date more than 12 months prior to January 1 of the valuation year under appeal; or*

(3) *documents detailing individual lease agreements.*

Nothing in this subsection shall prohibit the county appraiser or the county appraiser's designee from requesting a certified rent roll from the taxpayer.

Sec. 12. K.S.A. 2015 Supp. 79-1439 is hereby amended to read as follows: 79-1439. (a) All real and tangible personal property which is subject to general ad valorem taxation shall be appraised uniformly and

equally as to class and, unless otherwise specified herein, shall be appraised at its fair market value, as defined in K.S.A. 79-503a, and amendments thereto.

(b) Property shall be classified into the following classes and assessed at the percentage of value prescribed therefor:

(1) Real property shall be assessed as to subclass at the following percentages of value:

(A) Real property used for residential purposes including multi-family residential real property, real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are located, residential real property used partially for day care home purposes if such home has been registered or licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto, and ~~residential~~ real property used ~~partially~~ for bed and breakfast ~~home~~ purposes at 11.5%. As used in this paragraph “bed and breakfast ~~home~~” means a ~~residence~~ *property* with five or fewer bedrooms available for overnight guests who stay for not more than 28 consecutive days for which there is compliance with all zoning or other applicable ordinances or laws which pertain to facilities which lodge and feed guests;

(B) land devoted to agricultural use valued pursuant to K.S.A. 79-1476, and amendments thereto, at 30%;

(C) vacant lots at 12%;

(D) real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code and included herein pursuant to K.S.A. 79-1439a, and amendments thereto, at 12%;

(E) public utility real property, except railroad property which shall be assessed at the average rate all other commercial and industrial property is assessed, at 33%. As used in this paragraph, “public utility” shall have the meaning ascribed thereto by K.S.A. 79-5a01, and amendments thereto;

(F) real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use at 25%; and

(G) all other urban and rural real property not otherwise specifically subclassed at 30%.

(2) Personal property shall be classified into the following classes and assessed at the percentage of value prescribed therefor:

(A) Mobile homes used for residential purposes at 11.5%;

(B) mineral leasehold interests, except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests, the average daily production from which is 100 mcf or less, which shall be assessed at 25%, at 30%;

(C) public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof,

which shall be assessed at the average rate all other commercial and industrial property is assessed, at 33%. As used in this paragraph, “public utility” shall have the meaning ascribed thereto by K.S.A. 79-5a01, and amendments thereto;

(D) all categories of motor vehicles listed and taxed pursuant to K.S.A. 79-306d, and amendments thereto, and, prior to January 1, 2014, over-the-road motor vehicles defined pursuant to K.S.A. 79-6a01, and amendments thereto, at 30%;

(E) commercial and industrial machinery and equipment, including rolling equipment defined pursuant to K.S.A. 79-6a01, and amendments thereto, which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property as long as it is being used shall not be less than 20% of the retail cost when new of such property at 25%; and

(F) all other tangible personal property not otherwise specifically classified at 30%.

Sec. 13. K.S.A. 2015 Supp. 79-1448 is hereby amended to read as follows: 79-1448. Any taxpayer may complain or appeal to the county appraiser from the classification or appraisal of the taxpayer’s property by giving notice to the county appraiser within 30 days subsequent to the date of mailing of the valuation notice required by K.S.A. 79-1460, and amendments thereto, for real property, and on or before May 15 for personal property. The county appraiser or the appraiser’s designee shall arrange to hold an informal meeting with the aggrieved taxpayer with reference to the property in question. At such meeting it shall be the duty of the county appraiser or the county appraiser’s designee to initiate production of evidence to substantiate the valuation of such property, including ~~the affording to,~~ *a summary of the reasons that the valuation of the property has been increased over the previous year, any assumptions used by the county appraiser to determine the value of the property and a description of the individual property characteristics, property specific valuation records and conclusions.* The taxpayer ~~of~~ shall be provided with the opportunity to review the data ~~sheet of comparable sales utilized in the determination of such valuation~~ *sheets applicable to the valuation approach utilized for the subject property.* The county appraiser shall take into account any evidence provided by the taxpayer which relates to the amount of deferred maintenance and depreciation for the property. In any appeal from the appraisal of leased commercial and industrial property, the county or district appraiser’s appraised value shall be presumed to be valid and correct and may only be rebutted by a preponderance of the evidence, unless the property owner furnishes the county or district

appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal within 30 calendar days following the informal meeting. *In any appeal from the reclassification of property that was classified as land devoted to agricultural use for the preceding year, the taxpayer's classification of the property as land devoted to agricultural use shall be presumed to be valid and correct if the taxpayer provides an executed lease agreement or other documentation demonstrating a commitment to use the property for agricultural use, if no other actual use is evident.* The county appraiser may extend the time in which the taxpayer may informally appeal from the classification or appraisal of the taxpayer's property for just and adequate reasons. Except as provided in K.S.A. 79-1404, and amendments thereto, no informal meeting regarding real property shall be scheduled to take place after May 15, nor shall a final determination be given by the appraiser after May 20. Any final determination shall be accompanied by a written explanation of the reasoning upon which such determination is based when such determination is not in favor of the taxpayer. Any taxpayer who is aggrieved by the final determination of the county appraiser may appeal to the hearing officer or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto, and such hearing officer, or panel, for just cause shown and recorded, is authorized to change the classification or valuation of specific tracts or individual items of real or personal property in the same manner provided for in K.S.A. 79-1606, and amendments thereto. In lieu of appealing to a hearing officer or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto, any taxpayer aggrieved by the final determination of the county appraiser, except with regard to land devoted to agricultural use, wherein the value of the property, is less than \$3,000,000, as reflected on the valuation notice, or the property constitutes single family residential property, may appeal to the small claims and expedited hearings division of the state board of tax appeals within the time period prescribed by K.S.A. 79-1606, and amendments thereto. Any taxpayer who is aggrieved by the final determination of a hearing officer or panel may appeal to the state board of tax appeals as provided in K.S.A. 79-1609, and amendments thereto. An informal meeting with the county appraiser or the appraiser's designee shall be a condition precedent to an appeal to the county or district hearing panel.

Sec. 14. K.S.A. 79-1456 is hereby amended to read as follows: 79-1456. (a) The county appraiser shall follow the policies, procedures and guidelines of the director of property valuation in the performance of the duties of the office of county appraiser. *If the director has developed and adopted methodologies to value specific types of property, the county appraiser shall be required to follow such methodologies. Prior to January 1, 2017, the secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this section.*

(b) The county appraiser in establishing values for various types of personal property, shall conform to the values for such property as shown in the personal property appraisal guides prescribed or furnished by the director of property valuation. The county appraiser may deviate from the values shown in such guides on an individual piece of *personal* property for just cause shown and in a manner consistent with achieving fair market value.

Sec. 15. K.S.A. 2015 Supp. 79-1460 is hereby amended to read as follows: 79-1460. (a) The county appraiser shall notify each taxpayer in the county annually on or before March 1 for real property and May 1 for personal property, by mail directed to the taxpayer's last known address, of the classification and appraised valuation of the taxpayer's property, except that, the valuation for all real property shall not be increased unless: ~~(1) the record of the latest physical inspection was reviewed by the county or district appraiser, and documentation exists to support such increase in valuation in compliance with the directives and specifications of the director of property valuation, and such record and documentation is available to the affected taxpayer, and~~ (2). For the next two taxable years following the taxable year that the valuation for *commercial* real property has been reduced due to a final determination made pursuant to the valuation appeals process, ~~documented substantial and compelling reasons exist therefor and are provided by the county appraiser.~~ *The county appraiser shall review the computer-assisted mass-appraisal of the property and if the valuation in either of those two years exceeds the value of the previous year by more than 5%, excluding new construction, change in use or change in classification, the county appraiser shall either: (1) Adjust the valuation of the property based on the information provided in the previous appeal; or (2) order an independent fee simple appraisal of the property to be performed by a Kansas certified real property appraiser. As used in this section, "new construction" means the construction of any new structure or improvements or the remodeling or renovation of any existing structures or improvements on real property.* When the valuation for real property has been reduced due to a final determination made pursuant to the valuation appeals process for the prior year, and the county appraiser has already certified the appraisal rolls for the current year to the county clerk pursuant to K.S.A. 79-1466, and amendments thereto, the county appraiser may amend the appraisal rolls and certify the changes to the county clerk to implement the provisions of this subsection and reduce the valuation of the real property to the prior year's final determination, except that such changes shall not be made after October 31 of the current year. For the purposes of this section and in the case of real property, the term "taxpayer" shall be deemed to be the person in ownership of the property as indicated on the records of the office of register of deeds or county clerk and, in the case where the

real property or improvement thereon is the subject of a lease agreement, such term shall also be deemed to include the lessee of such property if the lease agreement has been recorded or filed in the office of the register of deeds. Such notice shall specify separately both the previous and current appraised and assessed values for each property class identified on the parcel. Such notice shall also contain the uniform parcel identification number prescribed by the director of property valuation. Such notice shall also contain a statement of the taxpayer's right to appeal, the procedure to be followed in making such appeal and the availability without charge of the guide devised pursuant to subsection (b). Such notice may, and if the board of county commissioners so require, shall provide the parcel identification number, address and the sale date and amount of any or all sales utilized in the determination of appraised value of residential real property. In any year in which no change in appraised valuation of any real property from its appraised valuation in the next preceding year is determined, an alternative form of notification which has been approved by the director of property valuation may be utilized by a county. Failure to timely mail or receive such notice shall in no way invalidate the classification or appraised valuation as changed. The secretary of revenue shall adopt rules and regulations necessary to implement the provisions of this section.

(b) For all taxable years commencing after December 31, 1999, there shall be provided to each taxpayer, upon request, a guide to the property tax appeals process. The director of the division of property valuation shall devise and publish such guide, and shall provide sufficient copies thereof to all county appraisers. Such guide shall include but not be limited to: (1) A restatement of the law which pertains to the process and practice of property appraisal methodology, including the contents of K.S.A. 79-503a and 79-1460, and amendments thereto; (2) the procedures of the appeals process, including the order and burden of proof of each party and time frames required by law; and (3) such other information deemed necessary to educate and enable a taxpayer to properly and competently pursue an appraisal appeal.

~~(c) For purposes of this section:~~

~~(1) The term "substantial and compelling reasons" means a change in the character of the use of the property or a substantial addition or improvement to the property;~~

~~(2) the term "substantial addition or improvement to the property" means the construction of any new structures or improvements on the property or the renovation of any existing structures or improvements on the property. The term "substantial addition or improvement to the property" shall not include:~~

~~(A) Any maintenance or repair of any existing structures, equipment or improvements on the property, or~~

~~(B) reconstruction or replacement of any existing equipment or components of any existing structures or improvements on the property.~~

Sec. 16. K.S.A. 79-1460a is hereby amended to read as follows: 79-1460a. Annually, at least ~~five~~ 10 business days prior to the mailing of change of valuation notices pursuant to K.S.A. 79-1460, and amendments thereto, the county or district appraiser shall cause to be published in the official county newspaper *and on the official county website, if the county maintains a county website*, the results of the market study analysis as prescribed by the director of the division of property valuation of the department of revenue.

Sec. 17. K.S.A. 2015 Supp. 79-1476 is hereby amended to read as follows: 79-1476. The director of property valuation is hereby directed and empowered to administer and supervise a statewide program of reappraisal of all real property located within the state. Except as otherwise authorized by K.S.A. 19-428, and amendments thereto, each county shall comprise a separate appraisal district under such program, and the county appraiser shall have the duty of reappraising all of the real property in the county pursuant to guidelines and timetables prescribed by the director of property valuation and of updating the same on an annual basis. In the case of multi-county appraisal districts, the district appraiser shall have the duty of reappraising all of the real property in each of the counties comprising the district pursuant to such guidelines and timetables and of updating the same on an annual basis. Commencing in 2000, every parcel of real property shall be actually viewed and inspected by the county or district appraiser once every six years. ~~Any county or district appraiser shall be deemed to be in compliance with the foregoing requirement in any year if 17% or more of the parcels in such county or district are actually viewed and inspected.~~

Compilation of data for the initial preparation or updating of inventories for each parcel of real property and entry thereof into the state computer system as provided for in K.S.A. 79-1477, and amendments thereto, shall be completed not later than January 1, 1989. Whenever the director determines that reappraisal of all real property within a county is complete, notification thereof shall be given to the governor and to the state board of tax appeals.

Valuations shall be established for each parcel of real property at its fair market value in money in accordance with the provisions of K.S.A. 79-503a, and amendments thereto.

In addition thereto valuations shall be established for each parcel of land devoted to agricultural use upon the basis of the agricultural income or productivity attributable to the inherent capabilities of such land in its current usage under a degree of management reflecting median production levels in the manner hereinafter provided. A classification system for all land devoted to agricultural use shall be adopted by the director of

property valuation using criteria established by the United States department of agriculture soil conservation service. For all taxable years commencing after December 31, 1989, all land devoted to agricultural use which is subject to the federal conservation reserve program shall be classified as cultivated dry land for the purpose of valuation for property tax purposes pursuant to this section. For all taxable years commencing after December 31, 1999, all land devoted to agricultural use which is subject to the federal wetlands reserve program shall be classified as native grassland for the purpose of valuation for property tax purposes pursuant to this section. Productivity of land devoted to agricultural use shall be determined for all land classes within each county or homogeneous region based on an average of the eight calendar years immediately preceding the calendar year which immediately precedes the year of valuation, at a degree of management reflecting median production levels. The director of property valuation shall determine median production levels based on information available from state and federal crop and livestock reporting services, the soil conservation service, and any other sources of data that the director considers appropriate.

The share of net income from land in the various land classes within each county or homogeneous region which is normally received by the landlord shall be used as the basis for determining agricultural income for all land devoted to agricultural use except pasture or rangeland. The net income normally received by the landlord from such land shall be determined by deducting expenses normally incurred by the landlord from the share of the gross income normally received by the landlord. The net rental income normally received by the landlord from pasture or rangeland within each county or homogeneous region shall be used as the basis for determining agricultural income from such land. The net rental income from pasture and rangeland which is normally received by the landlord shall be determined by deducting expenses normally incurred from the gross income normally received by the landlord. Commodity prices, crop yields and pasture and rangeland rental rates and expenses shall be based on an average of the eight calendar years immediately preceding the calendar year which immediately precedes the year of valuation. Net income for every land class within each county or homogeneous region shall be capitalized at a rate determined to be the sum of the contract rate of interest on new federal land bank loans in Kansas on July 1 of each year averaged over a five-year period which includes the five years immediately preceding the calendar year which immediately precedes the year of valuation, plus a percentage not less than 0.75% nor more than 2.75%, as determined by the director of property valuation, except that the capitalization rate calculated for property tax year 2003, and all such years thereafter, shall not be less than 11% nor more than 12%.

Based on the foregoing procedures the director of property valuation

shall make an annual determination of the value of land within each of the various classes of land devoted to agricultural use within each county or homogeneous region and furnish the same to the several county appraisers who shall classify such land according to its current usage and apply the value applicable to such class of land according to the valuation schedules prepared and adopted by the director of property valuation under the provisions of this section.

It is the intent of the legislature that appraisal judgment and appraisal standards be followed and incorporated throughout the process of data collection and analysis and establishment of values pursuant to this section.

For the purpose of the foregoing provisions of this section the phrase "land devoted to agricultural use" shall mean and include land, regardless of whether it is located in the unincorporated area of the county or within the corporate limits of a city, which is devoted to the production of plants, animals or horticultural products, including, but not limited to: Forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products. Land devoted to agricultural use shall not include those lands which are used for recreational purposes, other than that land established as a controlled shooting area pursuant to K.S.A. 32-943, and amendments thereto, which shall be deemed to be land devoted to agricultural use, ~~suburban residential acreages, rural home sites or farm home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition. If a parcel has land devoted to agricultural purposes and land used for suburban residential acreages, rural home sites or farm home sites, the county appraiser shall determine the amount of the parcel used for agricultural purposes and value and assess it accordingly as land devoted to agricultural purposes. The county appraiser shall then determine the amount of the remaining land used for such other purposes and value and assess that land according to its use.~~

The term "expenses" shall mean those expenses typically incurred in producing the plants, animals and horticultural products described above including management fees, production costs, maintenance and depreciation of fences, irrigation wells, irrigation laterals and real estate taxes, but the term shall not include those expenses incurred in providing temporary or permanent buildings used in the production of such plants, animals and horticultural products.

The provisions of this act shall not be construed to conflict with any other provisions of law relating to the appraisal of tangible property for taxation purposes including the equalization processes of the county and state board of tax appeals.

Sec. 18. K.S.A. 2015 Supp. 79-2004 is hereby amended to read as follows: 79-2004. (a) Except as provided by K.S.A. 79-4521, and amendments thereto, any person charged with real property taxes on the tax books in the hands of the county treasurer may pay, at such person's option, the full amount thereof on or before December 20 of each year, or $\frac{1}{2}$ thereof on or before December 20 and the remaining $\frac{1}{2}$ on or before May 10 next ensuing. If the full amount of the real property taxes listed upon any tax statement is \$10 or less the entire amount of such tax shall be due and payable on or before December 20.

In case the first half of the real property taxes remains unpaid after December 20, the first half of the tax shall draw interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, *plus five percentage points* per annum and may be paid at any time prior to May 10 following by paying $\frac{1}{2}$ of the tax together with interest at such rate from December 20 to date of payment. Subject to the provisions of subsection (d), all real property taxes of the preceding year and accrued interest thereon which remain due and unpaid on May 11 shall accrue interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, *plus five percentage points* per annum from May 10 until paid, or until the real property is sold for taxes by foreclosure as provided by law. Except as provided by subsection (c), all interest herein provided shall be credited to the county general fund, and whenever any such interest is paid the county treasurer shall enter the amount of interest so paid on the tax rolls in the proper column and account for such sum.

(b) Whenever any date prescribed in subsection (a) for the payment of real property taxes occurs on a Saturday or Sunday, such date for payment shall be extended until the next-following regular business day of the office of the county treasurer.

(c) The board of county commissioners may enter into an agreement with the governing body of any city located in the county for the distribution of part or all of the interest paid on special assessments levied by the city which remain unpaid.

(d) All real property taxes of any year past due and unpaid on the effective date of this section and interest accrued thereon pursuant to this section prior to its amendment by this act shall draw interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, *plus five percentage points* per annum from the effective date of this section until paid or until the real property is sold for taxes by foreclosure as provided by law.

Sec. 19. K.S.A. 2015 Supp. 79-2005 is hereby amended to read as follows: 79-2005. (a) Any taxpayer, before protesting the payment of such taxpayer's taxes, shall be required, either at the time of paying such taxes, or, if the whole or part of the taxes are paid prior to December 20, no later than December 20, or, with respect to taxes paid in whole or in part

in an amount equal to at least $\frac{1}{2}$ of such taxes on or before December 20 by an escrow or tax service agent, no later than January 31 of the next year, to file a written statement with the county treasurer, on forms approved by the state board of tax appeals and provided by the county treasurer, clearly stating the grounds on which the whole or any part of such taxes are protested and citing any law, statute or facts on which such taxpayer relies in protesting the whole or any part of such taxes. When the grounds of such protest is an assessment of taxes made pursuant to K.S.A. 79-332a and 79-1427a, and amendments thereto, the county treasurer may not distribute the taxes paid under protest until such time as the appeal is final. When the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the county treasurer shall forward a copy of the written statement of protest to the county appraiser who shall within 15 days of the receipt thereof, schedule an informal meeting with the taxpayer or such taxpayer's agent or attorney with reference to the property in question. *At the informal meeting, it shall be the duty of the county appraiser or the county appraiser's designee to initiate production of evidence to substantiate the valuation of such property, including a summary of the reasons that the valuation of the property has been increased over the preceding year, any assumptions used by the county appraiser to determine the value of the property and a description of the individual property characteristics, property specific valuation records and conclusions. The taxpayer shall be provided with the opportunity to review the data sheets applicable to the valuation approach utilized for the subject property. The county appraiser shall take into account any evidence provided by the taxpayer which relates to the amount of deferred maintenance and depreciation of the property.* The county appraiser shall review the appraisal of the taxpayer's property with the taxpayer or such taxpayer's agent or attorney and may change the valuation of the taxpayer's property, if in the county appraiser's opinion a change in the valuation of the taxpayer's property is required to assure that the taxpayer's property is valued according to law, and shall, within 15 business days thereof, notify the taxpayer in the event the valuation of the taxpayer's property is changed, in writing of the results of the meeting. In the event the valuation of the taxpayer's property is changed and such change requires a refund of taxes and interest thereon, the county treasurer shall process the refund in the manner provided by subsection (l).

(b) No protest appealing the valuation or assessment of property shall be filed pertaining to any year's valuation or assessment when an appeal of such valuation or assessment was commenced pursuant to K.S.A. 79-1448, and amendments thereto, nor shall the second half payment of taxes be protested when the first half payment of taxes has been protested. Notwithstanding the foregoing, this provision shall not prevent any subsequent owner from protesting taxes levied for the year in which such

property was acquired, nor shall it prevent any taxpayer from protesting taxes when the valuation or assessment of such taxpayer's property has been changed pursuant to an order of the director of property valuation.

(c) A protest shall not be necessary to protect the right to a refund of taxes in the event a refund is required because the final resolution of an appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto, occurs after the final date prescribed for the protest of taxes.

(d) If the grounds of such protest shall be that the valuation or assessment of the property upon which the taxes so protested are levied is illegal or void, such statement shall further state the exact amount of valuation or assessment which the taxpayer admits to be valid and the exact portion of such taxes which is being protested.

(e) If the grounds of such protest shall be that any tax levy, or any part thereof, is illegal, such statement shall further state the exact portion of such tax which is being protested.

(f) Upon the filing of a written statement of protest, the grounds of which shall be that any tax levied, or any part thereof, is illegal, the county treasurer shall mail a copy of such written statement of protest to the state board of tax appeals and the governing body of the taxing district making the levy being protested.

(g) Within 30 days after notification of the results of the informal meeting with the county appraiser pursuant to subsection (a), the protesting taxpayer may, if aggrieved by the results of the informal meeting with the county appraiser, appeal such results to the state board of tax appeals.

(h) After examination of the copy of the written statement of protest and a copy of the written notification of the results of the informal meeting with the county appraiser in cases where the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act, unless waived by the interested parties in writing. If the grounds of such protest is that the valuation or assessment of the property is illegal or void the board shall notify the county appraiser thereof.

(i) In the event of a hearing, the same shall be originally set not later than 90 days after the filing of the copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the board. With regard to any matter properly submitted to the board relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination except that no such duty shall accrue to the county or district appraiser with regard to leased commercial and

industrial property unless the property owner has furnished to the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. In all instances where the board sets a request for hearing and requires the representation of the county by its attorney or counselor at such hearing, the county shall be represented by its county attorney or counselor. *The board shall take into account any evidence provided by the taxpayer which relates to the amount of deferred maintenance and depreciation for the property. In any appeal from the reclassification of property that was classified as land devoted to agricultural use for the preceding year, the taxpayer's classification of the property as land devoted to agricultural use shall be presumed to be valid and correct if the taxpayer provides an executed lease agreement or other documentation demonstrating a commitment to use the property for agricultural use, if no other actual use is evident.*

(j) When a determination is made as to the merits of the tax protest, the board shall render and serve its order thereon. The county treasurer shall notify all affected taxing districts of the amount by which tax revenues will be reduced as a result of a refund.

(k) If a protesting taxpayer fails to file a copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the board within the time limit prescribed, such protest shall become null and void and of no effect whatsoever.

(l) (1) In the event the board orders that a refund be made pursuant to this section or the provisions of K.S.A. 79-1609, and amendments thereto, or a court of competent jurisdiction orders that a refund be made, and no appeal is taken from such order, or in the event a change in valuation which results in a refund pursuant to subsection (a), the county treasurer shall, as soon thereafter as reasonably practicable, refund to the taxpayer such protested taxes and, with respect to protests or appeals commenced after the effective date of this act, interest computed at the rate prescribed by K.S.A. 79-2968, and amendments thereto, minus two percentage points, per annum from the date of payment of such taxes from tax moneys collected but not distributed. Upon making such refund, the county treasurer shall charge the fund or funds having received such protested taxes, except that, with respect to that portion of any such refund attributable to interest the county treasurer shall charge the county general fund. In the event that the state board of tax appeals or a court of competent jurisdiction finds that any time delay in making its decision is unreasonable and is attributable to the taxpayer, it may order that no interest or only a portion thereof be added to such refund of taxes.

(2) No interest shall be allowed pursuant to paragraph (1) in any case where the tax paid under protest was inclusive of delinquent taxes.

(m) Whenever, by reason of the refund of taxes previously received or the reduction of taxes levied but not received as a result of decreases in assessed valuation, it will be impossible to pay for imperative functions for the current budget year, the governing body of the taxing district affected may issue no-fund warrants in the amount necessary. Such warrants shall conform to the requirements prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by such section and may be issued without the approval of the state board of tax appeals. The governing body of such taxing district shall make a tax levy at the time fixed for the certification of tax levies to the county clerk next following the issuance of such warrants sufficient to pay such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized by law.

(n) Whenever a taxpayer appeals to the board of tax appeals pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, or pays taxes under protest related to one property whereby the assessed valuation of such property exceeds 5% of the total county assessed valuation of all property located within such county and the taxpayer receives a refund of such taxes paid under protest or a refund made pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, the county treasurer or the governing body of any taxing subdivision within a county may request the pooled money investment board to make a loan to such county or taxing subdivision as provided in this section. The pooled money investment board is authorized and directed to loan to such county or taxing subdivision sufficient funds to enable the county or taxing subdivision to refund such taxes to the taxpayer. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments of the state of Kansas to provide the funds for such loan. Each loan shall bear interest at a rate equal to the net earnings rate of the pooled money investment portfolio at the time of the making of such loan. The total aggregate amount of loans under this program shall not exceed \$50,000,000 of unencumbered funds pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto. Such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas. Upon certification to the pooled money investment board by the county treasurer or governing body of the amount of each loan authorized pursuant to this subsection, the pooled money investment board shall transfer each such amount certified by the county treasurer or governing body from the state bank account or accounts prescribed in this subsection to the county treasurer who shall deposit such amount in the county treasury. Any such loan authorized pursuant to this subsection shall be repaid within four years. The county or taxing subdivision shall make not more than four equal annual tax levies at the time fixed for the certification of tax levies

to the county clerk following the making of such loan sufficient to pay such loan within the time period required under such loan. All such tax levies shall be in addition to all other levies authorized by law.

(o) The county treasurer shall disburse to the proper funds all portions of taxes paid under protest and shall maintain a record of all portions of such taxes which are so protested and shall notify the governing body of the taxing district levying such taxes thereof and the director of accounts and reports if any tax protested was levied by the state.

(p) This statute shall not apply to the valuation and assessment of property assessed by the director of property valuation and it shall not be necessary for any owner of state assessed property, who has an appeal pending before the state board of tax appeals, to protest the payment of taxes under this statute solely for the purpose of protecting the right to a refund of taxes paid under protest should that owner be successful in that appeal.

Sec. 20. K.S.A. 79-2011 is hereby amended to read as follows: 79-2011. Upon the receipt of the certification of claims allowed as provided in K.S.A. 79-2010, *and amendments thereto*, the county treasurer shall carefully check ~~said~~ the claims against the delinquent *real and* personal property tax of the current year and for seven ~~(7)~~ years preceding the current year, and within two ~~(2)~~ days of the receipt of ~~said~~ the list of claims as provided for in ~~said~~ K.S.A. 79-2010, ~~said~~ *and amendments thereto*, the county treasurer shall certify to the board of county commissioners and the county attorney a list of all claimants whose claims are allowed, and whose *real or* personal property tax is delinquent, setting forth the name of the claimant and the amount of tax together with any penalties or interest due, and setting forth the year or years for which ~~said~~ the tax was levied. Although the name of the claimant as appearing upon the claim filed is not the same as appearing upon the tax roll, if it is known that ~~they are~~ *such claimant is* one and the same, ~~said~~ the claim shall be handled in the same manner as though the ~~names were~~ *name was* identical on the claim and the tax roll.

Sec. 21. K.S.A. 2015 Supp. 79-2026 is hereby amended to read as follows: 79-2026. Whenever personal property in this state is abandoned or repossessed after it is assessed and before the taxes are paid, the owner or lessee of any real property upon which such property was situated at the time of abandonment or repossession shall ~~not be liable for such taxes where~~ *acquire such property free of any tax lien for unpaid taxes that may otherwise exist if* lawful title to such property is acquired by such landowner or lessee within 12 months of the time such property is deemed abandoned or within 12 months of the time legal proceedings are commenced to effect a repossession. *Any lien for unpaid taxes shall be extinguished for any such personal property acquired by the landowner or lessee as set forth herein. In no circumstances shall the landowner or*

lessee be liable for any taxes owed prior to the date the personal property is acquired by such landowner or lessee.

New Sec. 22. In any county which fails to meet the minimum appraisal standards for commercial real property established by the official Kansas appraisal/sales ratio study conducted for the preceding year by the division of property valuation of the department of revenue, the director of property valuation shall be required to perform, or to contract with an independent third party to perform, a market-based appraisal of no less than 1% of the commercial properties appraised by the computer-assisted mass-appraisal system within the county as a verification of the accuracy of such system. The properties shall be selected so to represent a sample of the commercial property types which failed to meet statistical compliance in the county. The property owner shall be allowed the opportunity to meet with the appraiser in order to offer pertinent data and insight on the issues that would affect the value of the property. This appraisal will not be an official appraisal of the property and will be used for the purposes of quality assurance of the mass-appraisal system. If the independent appraisal reveals a statistical deviation greater than 5% on more than 25% of the audited properties, then the director will perform additional audits in those counties and require corrective action necessary to ensure a fair and accurate appraisal.

New Sec. 23. Within 60 days after the date the notice of informal meeting results or final determination is mailed to the taxpayer pursuant to K.S.A. 79-1448, and amendments thereto, any taxpayer aggrieved by the final determination of the county appraiser, who has not filed an appeal with the board of tax appeals pursuant to K.S.A. 74-2433f, 79-1448, 79-1609 or 79-1611, and amendments thereto, may file with the county appraiser a third-party fee simple appraisal performed by a Kansas certified general real property appraiser that reflects the value of the property as of January 1 for the same tax year being appealed. Within 15 days after receipt of the appraisal, the county appraiser shall review and consider such appraisal in the determination of valuation or classification of the taxpayer's property and mail a supplemental notice of final determination. If the final determination is not in favor of the taxpayer then the county appraiser shall notify the taxpayer that the county is required to perform its own, or commission a fee simple single property appraisal. The county appraiser shall then have 90 days to furnish that appraisal along with a new supplemental notice of determination and if not in favor of the taxpayer include an explanation of the reasons the county appraiser did not rely upon the taxpayer's fee simple single property appraisal. Whenever a taxpayer submits a fee simple single property appraisal the burden of proof shall be on the county appraiser to dispute the value of that appraisal. Any taxpayer aggrieved by the final determination of the county appraiser may appeal to the state board of tax appeals as provided

in K.S.A. 79-1609, and amendments thereto, within 30 days subsequent to the date of mailing of the supplemental notice of final determination.

New Sec. 24. In those counties which fail to meet the minimum requirements for substantial appraisal compliance, the director of property valuation shall present the most recent results of the ratio study, including the results of any audits to such board of county commissioners in an open meeting. As a part of such presentation, the director shall present a summary of the number of valuation appeals that were filed in that county and the outcomes of those protests that resulted in reduced valuations of property.

Sec. 25. K.S.A. 2015 Supp. 12-1927 is hereby amended to read as follows: 12-1927. (a) (1) The recreation commission shall prepare an annual budget for the operation of the recreation system. Prior to the certification of its budget to the city or school district, the recreation commission shall meet for the purpose of answering and hearing objections of taxpayers relating to the proposed budget and for the purpose of considering amendments to such proposed budget. The recreation commission shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper having a general circulation in the taxing district. Such notice shall include the proposed budget and shall set out all essential items in the budget except such groupings as designated by the director of accounts and reports on a special publication form prescribed by the director of accounts and reports and furnished with the regular budget form. The public hearing required to be held herein shall be held not less than 10 days prior to the date on which the recreation commission is required to certify its budget to the city or school district.

(2) *Except as provided in subsection (b)*, after such hearing the budget shall be adopted or amended and adopted by the recreation commission. In order to provide funds to carry out the provisions of this act and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, the recreation commission shall annually, not later than August 1 of any year, certify its budget to such city or school district which shall levy a tax sufficient to raise the amount required by such budget on all the taxable tangible property within the taxing district.

(3) Each year a copy of the budget adopted by the recreation commission shall be filed with the city clerk in the case of a city-established recreation system or with the clerk of the school district in the case of a school district-established recreation system or with the clerk of the taxing district in the case of a jointly established recreation system. A copy of such budget also shall be filed with the county clerk of the county in which the recreation system is located. If the recreation system is located in more than one county, a copy of the budget shall be filed with the

clerk of the county in which the greater portion of the assessed valuation of the recreation system is located. The city or school district shall not be required to levy a tax in excess of the maximum tax levy set by the city or school district by current resolution. In the case of a new recreation commission established under the provisions of this act, such levy shall not be required to exceed one mill. Whenever the recreation commission determines that the tax currently being levied for the commission, as previously established by the city or school district, is insufficient to operate the recreation system and the commission desires to increase the mill levy above the current levy, the commission shall request that the city or school district authorize an increase by adopting a resolution declaring it necessary to increase the annual levy. The city or school district may authorize the increase by resolution, but such increase shall not exceed one mill per year. The maximum annual mill levy for the recreation commission general fund shall not exceed a total of four mills.

(b) *Prior to adopting the budget pursuant to subsection (a)(2), the Blue Valley recreation commission appointed by the Blue Valley unified school district no. 229 shall submit its proposed budget to the board of education of the school district. The board either shall approve or modify and approve the proposed budget. The recreation commission shall adopt the budget as approved or modified and approved by the school district board.*

(c) Any resolution adopted under subsection (a) shall state the total amount of the tax to be levied for the recreation system and shall be published once each week for two consecutive weeks in the official newspaper of the taxing district. Whereupon, such annual levy in an amount not to exceed the amount stated in the resolution may be made for the ensuing budget year and each successive budget year unless a petition requesting an election upon the proposition to increase the tax levy in excess of the current tax levy, signed by at least 5% of the qualified voters of the taxing district, is filed with the county election officer within 30 days following the date of the last publication of the resolution. In the event a valid petition is filed, no such increased levy shall be made without such proposition having been submitted to and having been approved by a majority of the voters of the taxing district voting at an election called and held thereon. All such elections shall be called and held in the manner provided by the general bond law, and the cost of the election shall be borne by the recreation commission. Such taxes shall be levied and collected in like manner as other taxes, which levy the city or school district shall certify, on or before August 25 of each year, to the county clerk who is hereby authorized and required to place the same on the tax roll of the county to be collected by the county treasurer and paid over by the county treasurer to the ex officio treasurer of the recreation commission.

~~(c)~~(d) The tax levy provided in this section shall not be considered a levy of such city or school district under any of the statutes of this state,

but shall be in addition to all other levies authorized by law and, with respect to any such levy made for the first time in 1989, shall not be subject to the provisions of K.S.A. 79-5021 et seq., and amendments thereto.

~~(d)~~(e) (1) At any time after the making of the first tax levy pursuant to this act, the amount of such tax levy may be reduced by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection ~~(b)~~ (c). The authority of any recreation commission in existence on the effective date of this act or any recreation commission established under the provisions of this act to operate and conduct its activities may be revoked in any year following the third year of its operation by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection ~~(b)~~ (c). If the petition submitted is for the purpose of reducing the mill levy, it shall state the mill levy reduction desired. Upon revocation, all property and money belonging to the recreation commission shall become the property of the taxing authority levying the tax for the commission, and the recreation commission shall be dissolved. In the event the authority of a recreation commission is revoked pursuant to this subsection, the taxing authority may continue to levy a tax in the manner prescribed by the petition language for the purpose of paying any outstanding obligations of the recreation commission which exist on the date such authority is revoked. The authority to levy a tax for this purpose shall continue only as long as such outstanding obligations exist.

(2) If the recreation district whose authority is revoked owns any real property at the time of such revocation, title to such real property shall revert to the taxing authority.

~~(e)~~(f) All financial records of the recreation commission shall be audited as provided in K.S.A. 75-1122, and amendments thereto, and a copy of such annual audit report shall be filed with the governing body of the city or school district, or both, in the case of a jointly established recreation system. A copy of such audit also shall be filed with the county clerk of the county in which the recreation system is located. If the recreation system is located in more than one county, a copy of the budget shall be filed with the clerk of the county in which the greater portion of the assessed valuation of the recreation system is located. The cost of each audit shall be borne by the recreation commission.

Sec. 26. K.S.A. 19-432, 79-504, 79-1412a, 79-1456, 79-1460a and 79-2011 and K.S.A. 2015 Supp. 12-1927, 74-2426, 74-2433, 74-2438, 77-618, 79-331, 79-425a, 79-503a, 79-1439, 79-1448, 79-1460, 79-1476, 79-2004, 79-2005 and 79-2026 are hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its publication in the statute book.

In accordance with K.S.A. 45-304, attached please find the Certificate of Action taken by the Senate and the House of Representatives relating to the veto of **House Substitute for SB 280**, AN ACT concerning taxation; relating to powers of taxing jurisdictions; valuation, appeals, procedure; ratio study, presentation to county commissioners, exemptions; bed and breakfasts; oil and gas leases, determination of value of production, evidence; county appraisers, persons eligible; market study analysis; tax liens, extinguishment; delinquent real property taxes, interest rate, claims against the county; amending K.S.A. 19-432, 79-504, 79-1412a, 79-1456, 79-1460a and 79-2011 and K.S.A. 2015 Supp. 12-1927, 74-2426, 74-2433, 74-2438, 77-618, 79-331, 79-425a, 79-503a, 79-1439, 79-1448, 79-1460, 79-1476, 79-2004, 79-2005 and 79-2026 and repealing the existing sections.

The veto message from the Governor having been received, a motion was made that notwithstanding the Governor's objections to House Substitute for SB 280, the bill be passed. By a vote of 120 Yeas and 0 Nays, the motion having received the required two-thirds majority of the members elected to the House of Representatives voting in the affirmative, the bill did pass.

CERTIFICATE

In accordance with K.S.A. 45-304, it is certified that **House Substitute for Senate Bill 280**, was not approved by the Governor on May 17, 2016; approved on June 1, 2016 by two-thirds of the members elected to the Senate notwithstanding the objections of the governor; was reconsidered by the House of Representatives and was approved on June 1, 2016, by two-thirds of the members elected to the House, notwithstanding the objections, the bill did pass and shall become law.

This certificate is made this 1st day of June, 2016 by the Chief Clerk and Speaker of the House of Representatives and the President and Secretary of the Senate.

SUSAN W. KANNAR
*Chief Clerk of the House of
Representatives of the State of Kansas*

RAY MERRICK
*Speaker of the House of
Representatives of the State of Kansas*

COREY CARNAHAN
*Secretary of the Senate of
the State of Kansas*

SUSAN WAGLE
*President of the Senate of
the State of Kansas*

Governor's veto overridden (See Messages from the Governor)

CHAPTER 113

HOUSE CONCURRENT RESOLUTION No. 5020

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

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That a committee of two members from the Senate and three members from the House of Representatives be appointed to wait upon the governor, and inform the governor that the two houses of the legislature are duly organized and are ready to receive any communications the governor may have to present.

Adopted by the House January 11, 2016.

Adopted by the Senate January 11, 2016.

CHAPTER 114

HOUSE CONCURRENT RESOLUTION No. 5021

A CONCURRENT RESOLUTION providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Governor.

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the Senate and the House of Representatives meet in joint session in Representative Hall at 5:00 p.m. on January 12, 2016, for the purpose of hearing the message of the Governor.

Be it further resolved: That a committee of two members from the Senate and three members from the House of Representatives be appointed to wait upon the Governor.

Be it further resolved: That a committee of two members from the Senate and three members from the House of Representatives be appointed to wait upon the Lieutenant Governor.

Adopted by the House January 11, 2016.

Adopted by the Senate January 11, 2016.

CHAPTER 115

HOUSE CONCURRENT RESOLUTION No. 5025

A CONCURRENT RESOLUTION relating to the adjournment of the senate and house of representatives for a period of time during the 2016 regular session of the legislature.

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature shall adjourn at the close of business of the daily session convened on February 23, 2016, and shall reconvene on March 2, 2016, pursuant to adjournment of the daily session convened on February 23, 2016; and

Be it further resolved: That the chief clerk of the house of representatives and the secretary of the senate and employees specified by the director of legislative administrative services for such purpose shall attend to their duties each day during periods of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

Be it further resolved: That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in K.S.A. 46-137a(a) and (b), and amendments thereto, for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

Be it further resolved: That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law, or by the legislative coordinating council, the president of the senate or the speaker of the house of representatives, and members of a conference committee attending a meeting of the conference committee authorized by the president of the senate and the speaker of the house of representatives during any period of adjournment for which members are not authorized compensation and allowances pursuant to K.S.A. 46-137a, and amendments thereto, shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212, and amendments thereto.

Adopted by the House February 23, 2016.

Adopted by the Senate February 23, 2016.

CHAPTER 116

HOUSE CONCURRENT RESOLUTION No. 5024

A CONCURRENT RESOLUTION urging the President of the United States to obey the Constitution and abandon the threatened transfer of terrorist detainees to Fort Leavenworth.

WHEREAS, The President of the United States, Barack Obama, has threatened to move the terrorist detainees currently held at Naval Station Guantanamo Bay to Fort Leavenworth without regard to the wishes or the safety of the people of Kansas; and

WHEREAS, The President has threatened to close the detention facility at Naval Station Guantanamo Bay; and

WHEREAS, The threat of the transfer has been underscored by visits to Fort Leavenworth by officials of his Administration, preparing for the threatened transfer; and

WHEREAS, Many detainees that have been released have continued to fight against this country and its allies; and

WHEREAS, This President and others have insisted that the mere existence of the detention facility at Guantanamo has inflamed terrorists around the world and aided in their recruitments; and

WHEREAS, Transferring the detainees to Fort Leavenworth will only transfer the ire of terrorists worldwide from Guantanamo to Fort Leavenworth; and

WHEREAS, This President has a demonstrated willingness to violate American law; and

WHEREAS, This President has said that he will go around the Congress to accomplish his agenda; and

WHEREAS, Closing the Naval Station at Guantanamo has been high on this President's agenda since before he was first elected; and

WHEREAS, The President has continually sought to weaken our standing in the world; and

WHEREAS, The terrorists have demonstrated an ability and willingness to conduct attacks in America, in furtherance of their savage war against America; and

WHEREAS, Detonating large bombs in civilian communities in the vicinity of Fort Leavenworth would be exactly the sort of demonstration that the terrorists would try; and

WHEREAS, Fort Leavenworth does not have the necessary facilities to hold and care for the detainees and would, for example, be forced to transport them through the city of Leavenworth to access medical care, thereby presenting additional soft, tempting targets for attacks; and

WHEREAS, The surrounding community does not have the law enforcement, emergency response resources or the physical capability to

harden potential civilian targets in the surrounding area. Transferring detainees to Fort Leavenworth represents a predictable, direct and unnecessarily high risk to American citizens in the vicinity of Fort Leavenworth; and

WHEREAS, The Naval Station at Guantanamo is a high security facility designed to both house high risk detainees and be secure from attack by external forces. This facility has not been the object of an external terrorist attack and, if it had been attacked, it would not have represented a threat to American civilians or communities; and

WHEREAS, The intentional placement of detainees on American soil, physically within an American community, would unnecessarily and intentionally put American citizens at much greater risk. It follows that any move by the President or other members of the Federal, State or local government to move the detainees to Fort Leavenworth would mean intentionally and knowingly placing American citizens at greater risk, in violation of the government's sworn oath to support and defend them against enemies, foreign or domestic; and

WHEREAS, Officers from over one hundred countries attend classes at Fort Leavenworth; and

WHEREAS, Many of these officers would not bring their families nor be permitted by their countries to attend, if the detainees were transferred to Fort Leavenworth, thereby hurting the local economy; and

WHEREAS, These officers and their families represent an important bond and link among our nations. Their loss will not just affect the local economy, but would potentially have grave impacts on our future ability to effectively and successfully find peaceful solutions to international problems: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the Legislature of the State of Kansas urges the President of the United States to obey the Constitution of the United States and the laws of this country, the people of which have placed him in a position of great trust and responsibility and depend upon him to ensure that the laws be upheld and that their security be maintained; and

Be it further resolved: That the President must declare that the detention facility at Naval Station Guantanamo Bay will remain, and that the detainees will continue to be held there, until said detainees are given proper, lawful disposition, in accordance with the Laws of War and the best interests of the safety of the people of the United States and their allies.

Adopted by the House March 7, 2016.

Adopted by the Senate March 15, 2016.

CHAPTER 117

HOUSE CONCURRENT RESOLUTION No. 5008

A PROPOSITION to amend the bill of rights of the constitution of the state of Kansas by adding a new section thereto, relating to the public right to hunt, fish and trap wildlife.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: The bill of rights of the constitution of the state of Kansas is hereby amended by adding a new section to read as follows:

“§21. Right of public to hunt, fish and trap wildlife. The people have the right to hunt, fish and trap, including by the use of traditional methods, subject to reasonable laws and regulations that promote wildlife conservation and management and that preserve the future of hunting and fishing. Public hunting and fishing shall be a preferred means of managing and controlling wildlife. This section shall not be construed to modify any provision of law relating to trespass, property rights or water resources.”

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

“Explanatory statement. This amendment is to preserve constitutionally the right of the public to hunt, fish and trap wildlife subject to reasonable laws and regulations. The right of the public to hunt, fish and trap shall not modify any provision of common law or statutes relating to trespass, eminent domain or any other private property rights.

“A vote for this proposition would constitutionally preserve the right of the public to hunt, fish and trap wildlife that has traditionally been taken by hunters, trappers and anglers. This public right is subject to state laws and rules and regulations regarding the management of wildlife and does not change or diminish common law or statutory rights relating to trespass, eminent domain or private property.

“A vote against this proposition would provide for no constitutional right of the public to hunt, fish and trap wildlife. It would maintain existing state laws and rules and regulations governing hunting, fishing and trapping wildlife.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the

Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2016 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

Adopted by the House February 22, 2016.

Adopted by the Senate March 17, 2016.

CHAPTER 118

SENATE CONCURRENT RESOLUTION No. 1613

A CONCURRENT RESOLUTION relating to the 2016 regular session of the legislature; extending such session beyond 90 calendar days; and providing for adjournment thereof.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected to the Senate and two-thirds of the members elected to the House of Representatives concurring therein: That the 2016 regular session of the legislature shall be extended beyond 90 calendar days; and

Be it further resolved: That the legislature shall adjourn at the close of business of the daily session convened on March 24, 2016, and shall reconvene at 10:00 a.m. on April 27, 2016; and

Be it further resolved: That the legislature may adjourn and reconvene at any time during the period on and after April 27, 2016, to June 1, 2016, but the legislature shall reconvene at 10:00 a.m. on June 1, 2016, at which time the legislature shall continue in session and shall adjourn sine die at the close of business on June 1, 2016; and

Be it further resolved: That the secretary of the senate and the chief clerk of the house of representatives and employees specified by the director of legislative administrative services for such purpose shall attend their duties each day during periods of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

Be it further resolved: That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in K.S.A. 46-137a(a) and (b), and amendments thereto, for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

Be it further resolved: That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law, or by the Legislative Coordinating Council or by the President of the Senate or the Speaker of the House of Representatives and members of a conference committee attending a meeting of the conference committee authorized by the President of the Senate and the Speaker of the House of Representatives during any period of adjournment for which members are not authorized compensation and allowances pursuant to K.S.A. 46-137a, and amendments thereto, shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212, and amendments thereto.

Adopted by the House March 24, 2016.

Adopted by the Senate March 24, 2016.

CHAPTER 119

HOUSE CONCURRENT RESOLUTION No. 5027

A CONCURRENT RESOLUTION relating to the 2016 regular session of the legislature and providing for an adjournment thereof.

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature shall adjourn at the close of business of the daily session convened on May 1, 2016, until the hour of 10:00 a.m. on June 1, 2016, at which time the legislature shall reconvene and shall continue in session until sine die adjournment at the close of business on June 1, 2016; and

Be it further resolved: That the chief clerk of the house of representatives and the secretary of the senate and employees specified by the director of legislative administrative services for such purpose shall attend their duties each day during periods of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

Be it further resolved: That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in K.S.A. 46-137a(a) and (b), and amendments thereto, for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

Be it further resolved: That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law, or by the President of the Senate, the Speaker of the House of Representatives or the Legislative Coordinating Council during the period of adjournment for which members are not authorized per diem compensation and subsistence allowances pursuant to K.S.A. 46-137a, and

amendments thereto, shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212, and amendments thereto.

Adopted by the House May 1, 2016.

Adopted by the Senate May 1, 2016.

MESSAGES FROM THE GOVERNOR

SENATE BILL No. 250

AN ACT concerning state building construction; relating to the monthly reports of progress; making and concerning appropriations for the fiscal years ending June 30, 2016, and June 30, 2017, for various state agencies; concerning the Docking state office building; amending K.S.A. 2015 Supp. 75-1264 and repealing the existing section.

Message to the Legislature of the State of Kansas:

For decades, our state government has been dealing with the serious decline in the condition of the Docking State Office Building. Docking served as the workplace for thousands of our state employees since 1957, and houses the energy center for the capitol complex, but is no longer a viable facility.

In April 2014, the Legislature passed and I signed Senate Bill 423, authorizing the demolition of Docking and the construction of a new energy center. Pursuant to my constitutional authority and obligation under Article 1, Section 3 of the state Constitution, my administration commenced the task of implementing this legislation. That work included the transfer of state employees out of Docking and into better office space and working conditions, the planned construction of a new energy center for the capitol complex, and other preparations for the eventual demolition of Docking. The building is expected to be vacant, with minor exceptions, by this summer, and the Department of Administration had entered into contracts to finance and construct the new energy center.

Early in this Legislative session, my administration was approached by members of the Legislature who believed the plans for Docking—in particular, the soon-to-be-commenced construction of the energy center—should be reexamined. I listened to their concerns, and at my direction the Department of Administration terminated the construction contract for the energy center on February 19, 2016. Because that contract already has been cancelled, the provisions of this bill purporting to eliminate the funding appropriation for the contract are no longer necessary.

Accordingly, pursuant to Article 2, Section 14 (a) of the Constitution of the State of Kansas, I hereby veto Senate Bill 250.

SAM BROWNBACK, *Governor*

Dated: March 4, 2016.

House Substitute for SENATE BILL No. 161

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.

Message to the Legislature of the State of Kansas:

I want to thank the members of the Legislature for their work in completing a budget bill at this relatively early stage of the session. As we all know, there is more work to be done, but this bill makes significant progress. I look forward to working with the Legislature on the remaining issues before us.

Pursuant to Article 2, Section 14(b) of the Constitution of the State of Kansas, I hereby return House Substitute for Senate Bill 161 with my signature approving the bill, except for the items enumerated below.

Department of Commerce – STAR Bonds

Sections 35(g) and 36(f) are vetoed in their entirety.

These provisions would bar any consideration or approval of STAR Bond projects in Wyandotte County until FY 2018. I do not believe there is any precedent for this kind of discrimination against one county in connection with economic development programs. The vetoed provisions here effectively would be repealed by the passage of other legislation containing certain STAR Bond reforms. My administration has been working with the Legislature on those reforms and will continue to do so. I look forward to receiving acceptable legislation before the end of the session. In my view, this approach to reform is much preferred over that taken in this bill.

**Department for Aging and Disability Service –
Mental Health Screenings**

Section 48(o) is vetoed in its entirety.

In October 2015, the Department for Aging and Disability Services discontinued its policy of requiring mental health screenings prior to admission to inpatient psychiatric beds at community hospitals and residential treatment facilities. The screenings were discontinued based on a threatened loss of funding from the federal government. The provision at issue here would return to the former policy, at a cost of \$1.8 million. While that cost may be justified by the benefits to be obtained from the screenings, approving this provision could additionally jeopardize substantial federal funding of inpatient Medicaid services. I would be pleased

to revisit this issue if the state receives new and different assurances from the federal government on the matter.

SAM BROWNBACK, *Governor*

Dated: March 4, 2016.

SENATE BILL No. 338

AN ACT concerning cities; relating to the rehabilitation of abandoned property; amending K.S.A. 2015 Supp. 12-1750 and 12-1756a and repealing the existing sections; also repealing K.S.A. 2015 Supp. 12-1756e.

Message to the Legislature of the State of Kansas:

The right to private property serves as a central pillar of the American constitutional tradition. It has long been considered essential to our basic understanding of civil and political rights. Property rights serve as a foundation to our most basic personal liberties. One of government's primary purposes is to protect the property rights of individuals.

The purpose of Senate Bill 338, to help create safer communities, is laudable. However, in this noble attempt, the statute as written takes a step too far. The broad definition of blighted or abandoned property would grant a nearly unrestrained power to municipalities to craft zoning laws and codes that could unjustly deprive citizens of their property rights. The process of granting private organizations the ability to petition the courts for temporary and then permanent ownership of the property of another is rife with potential problems.

Throughout the country, we have seen serious abuse where government has broadened the scope of eminent domain, especially when private development is involved. The use of eminent domain for private economic development should be limited in use, not expanded. Senate Bill 338 opens the door for serious abuse in Kansas. Governmental authority to take property from one private citizen and give to another private citizen should be limited, but this bill would have the effect of expanding such authority without adequate safeguards.

Kansans from across the political spectrum contacted me to discuss their concerns that this bill will disparately impact low income and minority neighborhoods. The potential for abuse of this new statutory process cannot be ignored. Government should protect property rights and ensure that the less advantaged are not denied the liberty to which every citizen is entitled.

There is a need to address the ability of municipalities and local communities to effectively maintain neighborhoods for public safety. How-

ever, Senate Bill 338 does much more. Though I am vetoing this bill, I would welcome legislation that empowers local communities to respond to blight and abandoned property that does not open the door to abuse of the fundamental rights of free people.

SAM BROWNBACK, *Governor*

Dated: April 11, 2016.

House Substitute for SENATE BILL No. 249

AN ACT making and concerning appropriations for fiscal years ending June 30, 2016, June 30, 2017, and June 30, 2018, for state agencies; authorizing and directing payment of certain claims against the state; 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. 2015 Supp. 74-4914d, as amended by section 106 of House Substitute for Senate Bill No. 161, 74-4920, as amended by section 107 of 2016 House Substitute for Senate Bill No. 161, and 74-99b34, as amended by section 109 of 2016 House Substitute for Senate Bill No. 161, and repealing the existing sections.

Message to the Legislature of the State of Kansas:

I want to thank every member of the Kansas Legislature for your hard work during the 2016 session.

I have taken actions to balance the budget and reduce the growth of state spending. If the Kansas Supreme Court orders an additional \$40 million, or more, in funding for schools, it could result in additional cuts to Medicaid and higher education beyond those enumerated here.

These actions protect public safety and provide support to state hospitals, specifically:

- Increasing SGF to Osawatomie State Hospital and Larned State Hospital by \$11.4 million in FY 2016.
- Increasing SGF to Osawatomie State Hospital and Larned State Hospital by \$5.6 million in FY 2017, including direct care pay increases to Registered Nurses at OSH and Mental Health Technicians at OSH and LSH in order to provide aid in recruitment and retention of qualified nursing and direct care staff.
- Increasing DCF's budget by \$1.1 million to fund pay increases to Social Workers to improve recruitment and retention in these hard to fill positions.
- Realizing \$6.5 million in reduced expenditures from the State Gen-

eral Fund in order to pay for the pay increases that will be realized through implementation of Alvarez and Marsal efficiency recommendations.

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return House Substitute for Senate Bill No. 249 with my signature approving the bill, except for the items enumerated below.

**Department for Aging and Disability Services –
Mental Health Screenings**

Section 20(b) is vetoed in its entirety.

In October 2015, the Department for Aging and Disability Services discontinued its policy of requiring mental health screenings prior to admission to inpatient psychiatric beds at community hospitals and residential treatment facilities. The screenings were discontinued based on the potential loss of funding from the federal government due to federal Mental Health parity regulations. The proviso at issue here would return to the former policy, at a cost of more than \$1.8 million. While that cost may be justified by the benefits to be obtained from the screenings, approving this provision could additionally jeopardize substantial federal funding of inpatient Medicaid services. I would be pleased to revisit this issue if the state receives new and different assurances from the federal government on the matter.

KPERS – Transfer of Tobacco Litigation Settlement Revenue

Section 50(c) is vetoed in its entirety.

House Substitute for SB 249 states that if KPERS employer contributions for any state agency is lapsed or transferred in FY 2016, the amount will be certified and repaid with interest of 8.0 percent per annum to the KPERS retirement fund from the State General Fund. The five repayment provisions are prescribed as follows:

- a. The amount of which the actual tax receipt revenues to the State General Fund exceeds the April, 2017, joint estimate of revenue shall repay the KPERS amount lapsed or transferred.
- b. The amount of which the actual tax receipt revenues to the State General Fund exceeds the April, 2018, joint estimate of revenue shall repay the KPERS amount lapsed or transferred.
- c. The amount received from master tobacco settlement litigation revenue in excess of expenditures or transfers that have been made from the Key Endowment for Youth Fund as provided by law in FY 2017 shall be used to repay the KPERS amount lapsed or transferred.
- d. The amount received from master tobacco settlement litigation revenue in excess of expenditures or transfers that have been made from the Key Endowment for Youth Fund as provided by law in FY

- 2018 shall be used to repay the KPERS amount lapsed or transferred; and
- e. Any amounts remaining to be repaid from the amount lapsed or transferred in FY 2016 will be repaid from the State General Fund by June 30, 2018.

The excess master tobacco settlement litigation revenue is estimated to be \$16.0 million in FY 2017. In order to increase the State General Fund ending balance by \$16.0 million and guard against further reductions to Medicaid and Higher Education, the proviso prescribing excess master tobacco settlement litigation revenue to be used to repay the KPERS amount lapsed or transferred in FY 2016 is vetoed. The remaining four provisions relating to the repayment of KPERS employer contributions lapsed or transferred in FY 2016 will remain.

SAM BROWNBACK, *Governor*

Dated: May 18, 2016.

House Substitute for SENATE BILL No. 280

AN ACT concerning taxation; relating to powers of taxing jurisdictions; valuation, appeals, procedure; ratio study, presentation to county commissioners, exemptions; bed and breakfasts; oil and gas leases, determination of value of production, evidence; county appraisers, persons eligible; market study analysis; tax liens, extinguishment; delinquent real property taxes, interest rate, claims against the county; amending K.S.A. 19-432, 79-504, 79-1412a, 79-1456, 79-1460a and 79-2011 and K.S.A. 2015 Supp. 12-1927, 74-2426, 74-2433, 74-2438, 77-618, 79-331, 79-425a, 79-503a, 79-1439, 79-1448, 79-1460, 79-1476, 79-2004, 79-2005 and 79-2026 and repealing the existing sections.

Message to the Legislature of the State of Kansas:

In 2014, I signed House Substitute for Senate Bill 231, which contained numerous revisions governing the litigation of tax cases. In connection with the consideration of that legislation, I expressed concerns about a section in a prior version of the bill that would have retroactively given the parties in previously determined matters a second opportunity to litigate their cases. This objectionable provision then was removed from the final 2014 legislation, which I eventually signed.

The bill that I am vetoing today renews the concerns I expressed two years ago, by adding a new provision that would for the first time allow tax cases that are on appeal and eventually remanded to the Board of Tax Appeals to then be the subject of a subsequent appeal to a district court, where the court would conduct an entirely new trial and decide all of the

issues over again. Section 3(c)(4)(B). This new possibility of district court “trial de novo,” as defined in this provision, improperly gives parties in previously determined matters a second opportunity to litigate their cases, and essentially nullifies the prior proceedings – thereby wasting the time, effort, and expenses incurred by the parties and the courts in these matters. Significantly, the Kansas courts have recognized that the Board of Tax Appeals already performs the necessary judicial function of an initial court of record for the matters at issue here – a function that would be upended by this legislation. See In re Appeal of Trickett, 27 Kan. App. 2d 651,656, 8 P.3d 18, 23 (2000).

The new appeal rights contained in this bill would be very beneficial to parties in cases positioned to take advantage of them, and as it turns out, to one case in particular. The State of Kansas is currently litigating an income tax matter in which the state has received a tax deposit of \$48,467,227.00. The taxpayers in that case, Mr. and Mrs. O. Gene Bicknell, have been supporters of and financial donors to my campaigns for public office, as well as the campaigns of many others. Mr. Bicknell was a candidate for the Republican nomination for Governor of Kansas in 1994. His tax dispute with the State of Kansas far predates my election as Governor, but the litigation has continued throughout my administration and I have always taken the position that the matter should be left to the Department of Revenue and the court system. See In re Bicknell, No. 2010-8529-DT (decision of the Kansas Court of Tax Appeals dated Dec. 3, 2013), vacated and remanded, No. 111,202 (decision of the Kansas Court of Appeals dated Sept. 25, 2015) (transfer motion pending before Kansas Supreme Court).

Under these circumstances, it would be improper for me to approve this legislation. Taxpayers should contest their past tax obligations before the board and the courts under the laws that apply to everyone. Most Kansans lack the resources necessary to seek special treatment through the legislative process. I share the Legislature’s interest in ensuring a fair and impartial system of justice for taxpayers. Toward that end, I look forward to receiving any new legislation with reforms that operate on a going forward basis and which do not disturb pending cases.

Accordingly, pursuant to Article 2, Section 14(a) of the Constitution of the State of Kansas, I hereby veto Senate Bill 280.

SAM BROWNBACK, *Governor*

Dated: May 17, 2016.
Governor’s veto overridden.

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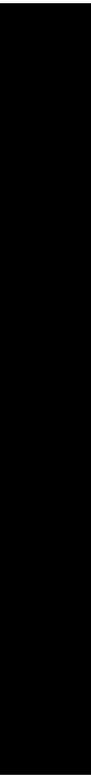
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2016 SPECIAL SESSION LAWS OF KANSAS

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

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

OFFICIAL DIRECTORY

ELECTIVE STATE OFFICERS

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

STATE BOARD OF EDUCATION

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

UNITED STATES SENATORS

<i>Name and residence</i>	<i>Party</i>	<i>Term</i>
Pat Roberts , Dodge City	Republican	Term expires Jan. 3, 2021
Jerry Moran , Hays	Republican	Term expires Jan. 3, 2017

UNITED STATES REPRESENTATIVES

(Terms expire January 3, 2017)

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

OFFICERS OF THE SENATE

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

OFFICERS OF THE HOUSE

Ray Merrick	Speaker
Peggy Mast	Speaker Pro Tem
Jene Vickrey	Majority Leader
Tom Burroughs	Minority Leader
Susan W. Kannarr	Chief Clerk
Foster Chisholm	Sergeant at Arms

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Speaker of the House of Representatives: **Ray Merrick**, Stilwell, Chairman
 President of the Senate: **Susan Wagle**, Wichita, Vice-Chairman
 Speaker Pro Tem of the House of Representatives: **Peggy Mast**, Emporia
 Senate Majority Leader: **Terry Bruce**, Hutchinson
 House Majority Leader: **Jene Vickrey**, Louisburg
 Senate Minority Leader: **Anthony Hensley**, Topeka
 House Minority Leader: **Tom Burroughs**, Kansas City

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Justin Stowe, Deputy Post Auditor
Chris Clarke, Performance Audit Manager
Katrin Osterhaus, IT Audit Manager
Julie Pennington, Financial Compliance Audit Manager
Rick Riggs, Administrative Auditor

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J.G. Scott, Assistant Director for Fiscal Affairs
Melissa Renick, Assistant Director for Research
Amy Deckard, Assistant Director for Information Management

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ADMINISTRATIVE SERVICES

Thomas A. Day, Director

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REVISOR OF STATUTES

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Bruce W. Kinzie
Editor of Statutes

Senior Assistant Revisors

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Jason B. Long
Jason W. Thompson
Scott S. Wells

Assistant Revisors

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Eileen D. Ma
Nicholas P. Myers
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Adam M. Siebers
J. Matthew Sterling
David P. Wiese
Daniel A. Y. Yoza

Norman J. Furse
Revisor Emeritus

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

LEGISLATIVE DIRECTORY

STATE SENATE

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
Abrams, Steve E. , 6964 252nd Rd., Arkansas City 67005	Rep.	32
Arpke, Tom , 512 W. Iron Ave., Salina 67401	Rep.	24
Baumgardner, Molly , 29467 Masters Ct., Louisburg 66053	Rep.	37
Bowers, Elaine S. , 1326 N. 150th Rd., Concordia 66901	Rep.	36
Bruce, Terry , P.O. Box 726, Hutchinson 67504	Rep.	34
Denning, Jim , 8416 W. 115th St., Overland Park 66210	Rep.	8
Donovan, Leslie D. (Les) Sr. , 314 N. Rainbow Lake, Wichita 67235	Rep.	27
Faust-Goudeau, Oletha , 1130 N. Parkwood Ln., Wichita 67208	Dem.	29
Fitzgerald, Steve , 3100 Tonganoxie Rd., Leavenworth 66048	Rep.	5
Francisco, Marci , 1101 Ohio, Lawrence 66044	Dem.	2
Haley, David , 936 Cleveland Ave., Kansas City 66101	Dem.	4
Hawk, Tom , 2600 Woodhaven Ct., Manhattan 66502	Dem.	22
Hensley, Anthony , 2226 S.E. Virginia Ave., Topeka 66605	Dem.	19
Holland, Tom , 961 E. 1600 Rd., Baldwin City 66006	Dem.	3
Holmes, Mitch , 211 S.E. 20th Ave., St. John 67576	Rep.	33
Kelly, Laura , 234 S.W. Greenwood Ave., Topeka 66606	Dem.	18
Kerschen, Dan , 645 S. 263 West, Garden Plain 67050	Rep.	26
King, Jeff , 1212 N. 2nd St., Independence 67301	Rep.	15
Knox, Forrest , 17120 Udall Rd., Altoona 66710	Rep.	14
LaTurner, Jacob , 204 E. Euclid, Pittsburg 66762	Rep.	13
Longbine, Jeff , 2801 Lakeridge Rd., Emporia 66801	Rep.	17
Love, Garrett , P.O. Box 1, Montezuma 67867	Rep.	38
Lynn, Julia , 18837 W. 115th Terr., Olathe 66061	Rep.	9
Masterson, Ty , P.O. Box 424, Andover 67002	Rep.	16
McGinn, Carolyn , P.O. Box A, Sedgwick 67135	Rep.	31
Melcher, Jeff , 11424 Canterbury Cr., Leawood 66211	Rep.	11
O'Donnell, Michael II , 616 S. Sheridan, Wichita 67213	Rep.	25
Olson, Rob , 15944 S. Clairborn St., Olathe 66062	Rep.	23
Ostmeyer, Ralph , Box 97, Grinnell 67738	Rep.	40
Petersen, Mike , 2608 S. Southeast Dr., Wichita 67216	Rep.	28
Petty, Pat , 5316 Lakewood St., Kansas City 66106	Dem.	6
Pilcher-Cook, Mary , 13910 W. 58th Pl., Shawnee 66216	Rep.	10
Powell, Larry R. , 2209 Grandview Dr. East, Garden City 67846	Rep.	39
Pyle, Dennis D. , 2979 Kingfisher Rd., Hiawatha 66434	Rep.	1
Schmidt, Vicki , 5906 S.W. 43rd Ct., Topeka 66610	Rep.	20
Smith, Greg , 8605 Robinson, Overland Park 66212	Rep.	21
Tyson, Caryn , P.O. Box 191, Parker 66072	Rep.	12
Wagle, Susan , 4 N. Sagebrush St., Wichita 67230	Rep.	30
Wilborn, Richard E. (Rick) , 1504 Heritage Pl., McPherson 67460	Rep.	35
Wolf, Kay , 8339 Roe Ave., Prairie Village 66207	Rep.	7

HOUSE OF REPRESENTATIVES

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
Alcala, John , 520 N.E. Lake, Topeka 66616	Dem.	57
Alford, J. Stephen , 4179 E. Rd. 19, Ulysses 67880	Rep.	124
Anthimides, Steven S. , 2370 S. Southeast Dr., Wichita 67216	Rep.	98
Ballard, Barbara W. , 1532 Alvamar Dr., Lawrence 66047	Dem.	44
Barker, John E. , 103 Wassinger Ave., Abilene 67410	Rep.	70
Barton, Tony , 1402 Franklin St., Leavenworth 66048	Rep.	41
Becker, Steven R. , 8119 Champions Ct., Buhler 67522	Rep.	104
Billinger, Richard (Rick) , 310 Acacia, Goodland 67735	Rep.	120
Boldra, Sue , 2405 General Custer Rd., Hays 67601	Rep.	111
Bollier, Barbara , 6910 Overhill Dr., Mission Hills 66208	Rep.	21
Bradford, John , 125 Rock Creek Loop, Lansing 66043	Rep.	40
Bruchman, Rob , 3512 W. 129th St., Leawood 66209	Rep.	20
Burroughs, Tom , 3131 S. 73rd Terr., Kansas City 66106	Dem.	33
Campbell, Larry L. , 15803 S. Avalon, Olathe 66062	Rep.	26
Carlín, Sydney , 1650 Sunny Slope Ln., Manhattan 66502	Dem.	66
Carmichael, John , 1475 N. Lieunett St., Wichita 67203	Dem.	92
Carpenter, Blake , 2425 N. Newberry, Apt. 3202, Derby 67037	Rep.	81
Carpenter, Will , 6965 S.W. 18th St., El Dorado 67042	Rep.	75
Claeys, J.R. , 2157 Redhawk Lane, Salina 67401	Rep.	69
Clark, Lonnie , 824 B S. Madison, Junction City 66441	Rep.	65
Clayton, Stephanie , 9825 Woodson Dr., Overland Park 66207	Rep.	19
Concannon, Susan , 921 N. Mill St., Beloit 67420	Rep.	107
Corbet, Ken , 10351 S.W. 61st St., Topeka 66610	Rep.	54
Curtis, Pam , 322 N. 16th St., Kansas City 66102	Dem.	32
Davis, Erin , 12018 S. Clinton St., Olathe 66061	Rep.	15
DeGraaf, Pete , 1545 E. 119th St., Mulvane 67110	Rep.	82
Dierks, Diana , 1221 Sunrise Dr., Salina 67401	Rep.	71
Doll, John , 2927 Cliff Place, Garden City 67846	Rep.	123
Dove, Willie O. , 14715 Timber Ln., Bonner Springs 66012	Rep.	38
Edmonds, John , P.O. Box 1816, Great Bend 67530	Rep.	112
Esau, Keith , 11702 S. Winchester St., Olathe 66061	Rep.	14
Estes, Bud , 1405 Elbow Bend, Dodge City 67801	Rep.	119
Ewy, John L. , 312 Park St., Jetmore 67854	Rep.	117
Finch, Blaine , 5 S.W. Fairview Dr., Ottawa 66067	Rep.	59
Finney, Gail , 1754 N. Madison Ave., Wichita 67214	Dem.	84
Francis, Shannon , 1501 Tucker Ct., Liberal 67901	Rep.	125
Frownfelter, Stan , 5225 Crest Dr., Kansas City 66106	Dem.	37
Gallagher, Linda , 7804 Monrovia St., Lenexa 66216	Rep.	23
Garber, Randy , 2424 Timberlane Terr., Sabetha 66534	Rep.	62
*Gartner, Jim , 928 S.W. Woodbridge Ct., Topeka, 66606	Dem.	53
Goico, Mario , 1254 N. Pine Grove Ct., Wichita 67212	Rep.	94
Gonzalez, Ramon C. Jr. , 312 Elm St., Perry 66073	Rep.	47
Grosserode, Amanda , 12601 W. 99th St., Lenexa 66215	Rep.	16
Hawkins, Daniel R. , 9406 Harvest Ln., Wichita 67212	Rep.	100
Hedke, Dennis E. , 1669 N. Sagebrush St., Wichita 67230	Rep.	99

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
Helgerson, Henry , 12 E. Peach Tree Lane, Eastborough 67207	Dem.	83
Hemsley, Lane , 2909 S.W. 33rd Cr., Topeka 66614	Rep.	56
Henderson, Broderick , 2710 N. 8th St., Kansas City 66101	Dem.	35
Henry, Jerry , P.O. Box 186, Atchison 66002	Dem.	63
Hibbard, Larry , 858 EE 75 Rd., Toronto 66777	Rep.	13
Highberger, Dennis (Boog) , 1024 New York St., Lawrence 66044	Dem.	46
Highland, Ron , 27487 Wells Creek Rd., Wamego 66547	Rep.	51
Hildabrand, Brett , 16820 W. 67th St., #407, Shawnee 66217	Rep.	17
Hill, Don , 1720 Luther St., Emporia 66801	Rep.	60
Hineman, Don , 116 S. Longhorn Rd., Dighton 67839	Rep.	118
Hoffman, Kyle D. , 1318 Ave. T, Coldwater 67029	Rep.	116
Houser, Michael , 6891 S.W. 10th St., Columbus 66725	Rep.	1
Houston, Roderick A. , 4902 Looman St., Wichita 67220	Dem.	89
Huebert, Steve , 619 N. Birch, Valley Center 67147	Rep.	90
Hutchins, Becky , 407 New York Ave., Holton 66436	Rep.	61
Hutton, Mark , 7118 Clearmeadow Ct., Wichita 67205	Rep.	105
Jennings, Russ , P.O. Box 295, Lakin 67860	Rep.	122
Johnson, Steven C. , 10197 S. Hopkins Rd., Assaria 67416	Rep.	108
Jones, Dick , 4231 Marlboro Rd., Topeka 66610	Rep.	52
Jones, Kevin , 416 E. 7th St., Wellsville 66092	Rep.	5
Kahrs, Mark , 201 N. Post Oak Rd., Wichita 67206	Rep.	87
Kelley, Kasha , P.O. Box 1111, Arkansas City 67005	Rep.	80
Kelly, Jim , 309 S. 5th St., Independence 67301	Rep.	11
Kiegerl, S. Mike , 2350 Golf Course Rd., Olathe 66061	Rep.	121
Kleeb, Marvin G. , 14206 Eby, Overland Park 66221	Rep.	48
Kuether, Annie , 1346 S.W. Wayne Ave., Topeka 66604	Dem.	55
Lewis, Greg , 910 N.E. 30th Ave., St. John 67576	Rep.	113
Lunn, Jerry , 14512 Horton, Overland Park 66223	Rep.	28
Lusk, Nancy , 7700 W. 83rd St., Overland Park 66204	Dem.	22
Lusker, Adam J. Sr. , 452 S. 210th St., Frontenac 66763	Dem.	2
Macheers, Charles , 21704 W. 57th Terr., Shawnee 66218	Rep.	39
Mason, Les , 108 Arcadian Ct., McPherson 67460	Rep.	73
Mast, Peggy , 765 Road 110, Emporia 66801	Rep.	76
McPherson, Craig A. , 11911 W. 143rd Terr., Olathe 66062	Rep.	8
Merrick, Ray , 6874 W. 164th Terr., Stilwell 66085	Rep.	27
Moxley, Tom , 1852 S. 200 Rd., Council Grove 66846	Rep.	68
O'Brien, Connie , 22123 211th St., Tonganoxie 66086	Rep.	42
Osterman, Les , 1401 W. Dallas, Wichita 67217	Rep.	97
Ousley, Jarrod , 6800 Farley, Merriam 66203	Dem.	24
Patton, Fred C. , 339 N.E. 46th, Topeka 66617	Rep.	50
Pauls, Jan , 101 E. 11th Ave., Hutchinson 67501	Rep.	102
Peck, Virgil Jr. , P.O. Box 299, Havana 67347	Rep.	12
Phillips, Tom , 1530 Barrington Dr., Manhattan 66503	Rep.	67
Powell, Randy , 14481 W. 122nd St., Olathe 66062	Rep.	30
Proehl, Richard , 510 Pine Ridge Rd., Parsons 67357	Rep.	7
Rahjes, Ken , 1798 E. 900 Rd., Agra 67621	Rep.	110
Read, Marty , 18244 Kansas Hwy. 52, Mound City 66056	Rep.	4

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
Rhoades, Marc , 1006 Lazy Creek Dr., Newton 67114	Rep.	72
Rooker, Melissa A. , 4124 Brookridge Dr., Fairway 66205	Rep.	25
Rubin, John , 13803 W. 53rd St., Shawnee 66216	Rep.	18
Ruiz, Louis E. , 2914 W. 46th Ave., Kansas City 66103	Dem.	31
Ryckman, Ron Jr. , 14234 W. 158th St., Olathe 66062	Rep.	78
Ryckman, Ronald W. Sr. , 503 N. Cedar St., Meade 67864	Rep.	115
Sawyer, Tom , 1041 S. Elizabeth St., Wichita 67213	Dem.	95
Scapa, Joseph Brian , 2209 S. White Cliff Ln., Wichita 67207	Rep.	88
Schroeder, Don , 708 Charles St., Hesston 67062	Rep.	74
Schwab, Scott , 14953 W. 140th Terr., Olathe 66062	Rep.	49
Schwartz, Sharon , 2051 20th Rd., Washington 66968	Rep.	106
Scott, Ben J., Sr. , 3024 S.E. Minnesota Ave., Topeka 66605	Dem.	58
Seiwert, Joe , 1111 E. Boundary Rd., Pretty Prairie 67570	Rep.	101
Sloan, Tom , 772 Hwy. 40, Lawrence 66049	Rep.	45
Smith, Charles , 2112 W. 4th, Pittsburg 66762	Rep.	3
Suellentrop, Gene M. , 6813 W. Northwind Circle, Wichita 67205	Rep.	91
Sutton, William (Bill) , 301 W. Westhoff Pl., Gardner 66030	Rep.	43
Swanson, Susie , 1422 5th St., Clay Center 67432	Rep.	64
Thimesch, Jack , 11716 S.W. 80th St., Spivey 67142	Rep.	114
Thompson, Kent L. , 1816 2800 St., LaHarpe 66751	Rep.	9
Todd, James Eric , 9812 W. 118th St., Overland Park 66210	Rep.	29
Trimmer, Ed , 1402 E. 9th Ave., Winfield 67156	Dem.	79
Vickrey, Jene , 502 S. Countryside Dr., Louisburg 66053	Rep.	6
Victors, Ponka-We , P.O. Box 48081, Wichita 67201	Dem.	103
Ward, Jim , 3100 E. Clark, Wichita 67211	Dem.	86
Waymaster, Troy L. , 3528 192nd St., Bunker Hill 67626	Rep.	109
Weber, Chuck , 2331 N. Winstead Circle, Wichita 67226	Rep.	85
Whipple, Brandon , 4455 S. Washington Ct., Wichita 67217	Dem.	96
Whitmer, John R. , 12905 W. Red Rock, Wichita 67235	Rep.	93
Williams, Kristey S. , 506 Stone Lake Ct., Augusta 67010	Rep.	77
Wilson, John , 1923 Ohio St., Lawrence 66046	Dem.	10
Winn, Valdenia C. , P.O. Box 12327, Kansas City 66112	Dem.	34
Wolfe Moore, Kathy , 3209 N. 131st St., Kansas City 66109	Dem.	36

*Representative Gartner was a new member during the 2016 Special Session. He replaced Annie Tietze.

2016 SPECIAL SESSION LAWS OF KANSAS

CHAPTER 1

Substitute for HOUSE BILL No. 2001

TO	SEC.	TO	SEC.
Children and families, Kansas department for	3	Transportation, department of	6
Education, department of	2		

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2017, and June 30, 2018, for certain agencies; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing.

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

Section 1. (a) For the fiscal years ending 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 and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

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

Sec. 2.

DEPARTMENT OF EDUCATION

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

Supplemental general state aid \$99,408,027

Provided, That notwithstanding the provisions of section 3 of 2016 Senate Substitute for House Bill No. 2655, and amendments thereto, expenditures shall be made by the above agency from the supplemental general state aid account of the department of education for fiscal year 2017, for the purpose of providing supplemental general state aid to each school district that has adopted a local option budget in accordance with K.S.A. 2015 Supp. 72-6471, and amendments thereto, as follows: *Provided further*, That for each school district, the state board of education shall: (1) Determine the amount of the assessed valuation per pupil in the preceding school year of each school district in the state; (2) rank the districts from low to high on the basis of the amounts of assessed valuation per pupil determined under (1); (3) identify the amount of the assessed valuation per pupil located at the 81.2 percentile of the amounts ranked

under (2); (4) divide the assessed valuation per pupil of the district in the preceding school year by the amount identified under (3); and (5) if the quotient obtained under (4) is less than one, subtract the quotient obtained under (4) from one, and multiply such difference by the amount of the local option budget of the school district: *And provided further*, That the resulting product is the amount of supplemental general state aid the above agency shall distribute to such school district: *And provided further*, That if the quotient obtained under (4) equals or exceeds one, the above agency shall not distribute supplemental general state aid in any amount to such school district: *And provided further*, That payments of supplemental general state aid shall be distributed to school districts on the dates prescribed by the state board of education: *And provided further*, That the state board of education shall certify to the director of accounts and reports the amount of supplemental general state aid that is to be distributed to each school district, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district, and 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: *And provided further*, That if any amount of supplemental general state aid that is due to be paid during the month of June of fiscal year 2017 is not paid on or before June 30 of fiscal year 2017, then such payment shall be paid on or after the ensuing July 1, as soon as moneys are available therefor, and any payment of supplemental general state aid that is due to be paid during the month of June of fiscal year 2017 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.

(b) 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 \$2,800,000 is hereby lapsed.

(c) Notwithstanding the provisions of K.S.A. 2015 Supp. 72-3715, and amendments thereto, 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 department of education for fiscal year 2017, by section 54(c) of 2016 House Substitute for Senate Bill No. 161, expenditures from the block grants to USDs account of the department of education that are directly attributable to virtual school state aid shall be distributed as follows: *Provided*, That for each school district, the state board of education shall: (1) Determine the number of pupils enrolled in virtual school on a full-time basis, excluding those pupils who are over 18 years of age, and multiply the total number of such pupils by \$5,000; (2) determine the full-time equivalent enrollment of pupils enrolled in virtual

school on a part-time basis, excluding those pupils who are over 18 years of age, and multiply the total full-time equivalent enrollment of such pupils by \$1,700; (3) for pupils enrolled in a virtual school who are over 18 years of age, determine the number of one-hour credit courses such pupils have passed and multiply the total number of such courses by \$933; and (4) add the amounts calculated under (1) through (3): *Provided further*, That the resulting sum is the total amount of virtual school state aid for such school district for fiscal year 2017.

(d) On July 1, 2016, the \$61,792,947 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 1(a) of 2016 Senate Substitute for House Bill No. 2655 from the state general fund in the school district equalization state aid account, is hereby lapsed: *Provided*, That the state board of education shall not make any disbursements of school district equalization state aid to any school district pursuant to section 5 of 2016 Senate Substitute for House Bill No. 2655 during fiscal year 2017.

(e) The provisions of section 1(d), (e) and (f) of 2016 Senate Substitute for House Bill No. 2655 are hereby declared to be null and void and shall have no force and effect.

(f) 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 \$13,000,000: *Provided, however*, That if, during the fiscal year ending June 30, 2017, 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 (g), then the expenditure limitation established 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 \$13,000,000 to \$13,000,000 minus the amount of moneys certified by the state board of education to be transferred pursuant to subsection (g).

(g) On July 1, 2016, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$8,000,000 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 subsection (a), 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) of 2016 Senate Substitute for House Bill No. 2655, 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, however*, That if the proceeds of the sale or merger of the Kansas bioscience authority pursuant to section 4 of this act are less than \$38,000,000, then the director of the budget shall certify the amount of moneys equal to the difference between the amount of the proceeds and \$38,000,000 to the state board of education: *And provided*, That the state board of education shall send such certification to the director of accounts and reports: *And provided further*, 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 state general fund: *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.

(h) 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 \$13,000,000.

Sec. 3.

KANSAS DEPARTMENT FOR CHILDREN AND FAMILIES

(a) 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 2015 Session Laws of Kansas, section 50(e) of 2016 House Substitute for Senate Bill No. 161, this act of the 2016 special session or appropriation act of the 2016 or 2017 regular session of the legislature, expenditures shall be made by the above agency from the temporary assistance to needy families federal fund for fiscal year 2017, in an amount not less than \$4,100,000, for the purpose of providing additional funding for programs provided by the department of education: *Provided, however*, That any such programs shall: (1) Comply with requirements of the temporary assistance to needy families block grant; and (2) meet any other programmatic requirements of the federal guidelines for temporary assistance to needy families program.

(b) On July 1, 2016, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$4,100,000 from the children's initiatives fund to the state general fund.

(c) On July 1, 2016, of the \$42,000,000 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 50(d) of 2016 House Substitute for Senate Bill No. 161 from the children's initiatives fund, the sum of \$4,100,000 is hereby lapsed.

(d) When the Kansas department for children and families authorizes an expenditure of moneys from the temporary assistance for needy families federal fund in fiscal year 2017 for additional funding for programs provided by the department of education pursuant to subsection (a), the director of the budget shall direct the director of accounts and reports to create a temporary assistance for needy families federal fund with no limit expenditure authority in the department of education, if such fund does not already exist.

Sec. 4. During fiscal year 2017, if pursuant to K.S.A. 2015 Supp. 74-99b15, as amended by section 6 of 2016 House Bill No. 2632, and amendments thereto, the legislature or the state finance council authorizes the Kansas bioscience authority board to sell the authority or substantially all of the assets of the authority, or to merge the authority with another institution, any proceeds of such sale or merger which are in excess of \$25,000,000, but less than \$38,000,000, shall be deposited in the state treasury to the credit of the state general fund.

Sec. 5. During fiscal year 2017, pursuant to K.S.A. 2015 Supp. 72-6476, as amended by section 9 of 2016 Senate Substitute for House Bill No. 2655, the state board of education shall accept extraordinary need state aid applications and may approve any such applications subject to the provisions of this section: *Provided, however*, That no moneys shall be expended from the school district extraordinary need fund during fiscal year 2017 for any approved application for extraordinary need state aid until the sale or merger of the Kansas bioscience authority is complete pursuant to K.S.A. 2015 Supp. 74-99b15, as amended by section 6 of 2016 House Bill No. 2632, and amendments thereto, as certified by the director of the budget: *And provided further*, That if the proceeds of such sale or merger are not less than \$38,000,000, the state board of education shall authorize the distribution of the approved extraordinary need state aid applications: *And provided, however*, That if the proceeds of such sale or merger are less than \$38,000,000, the state board of education shall adjust the amount of the previously approved extraordinary need state aid applications and authorize the distribution of such adjusted amount: *And provided, however*, That the provisions of this section shall be subject to the requirements of section 2(g) of this act and the limitations imposed in section 2(h) of this act.

Sec. 6.

DEPARTMENT OF TRANSPORTATION

(a) On July 1, 2016, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 68-416, and amendments thereto, the director of accounts and reports shall transfer \$5,000,000 from the state highway fund of the department of transportation (276-00-4100-0403) to the school district extraordinary need fund of the department of education.

Sec. 7. The provisions of this act are hereby declared to be severable. If any of the provisions of this act, or any application of any of the provisions of this act to any person or circumstance, is held to be invalid or unconstitutional by court order, such invalid provisions shall not affect any other provisions or applications of this act, and such other provisions or applications of this act shall be valid and in force and effect as if enacted without the invalid provisions.

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

Approved June 27, 2016.

CHAPTER 2

SENATE CONCURRENT RESOLUTION No. 1601

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

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That a committee of two members from the Senate and three members from the House of Representatives be appointed to wait upon the governor, and inform the governor that the two houses of the legislature are duly organized and are ready to receive any communications the governor may have to present.

Adopted by the House June 23, 2016.

Adopted by the Senate June 23, 2016.

CHAPTER 3

SENATE CONCURRENT RESOLUTION No. 1604

A CONCURRENT RESOLUTION relating to the 2016 special session of the legislature and providing for the adjournment thereof.

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the legislature shall adjourn sine die at the close of business of the daily session convened on June 24, 2016.

Adopted by the House June 24, 2016.

Adopted by the Senate June 24, 2016.

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